

SEVENTY-THIRD DAY

(Continued)

(Monday, May 22, 1939)

The House met at 10:00 o'clock a. m., and was called to order by Speaker Morse.

Prayer was offered by Rev. George W. Coltrin, Chaplain, as follows:

"To Thee, Lord, we are grateful for the opportunity to renew our work in this new day. When the record of this day and this week shall be written, may it be a history of worthy accomplishment, to the good of our State and to the glory of Thy name. For Christ's sake. Amen."

LEAVES OF ABSENCE GRANTED

(By unanimous consent)

The following Members were granted leaves of absence on account of important business:

Mr. Harper and Mr. Ragsdale temporarily for today, on motion of Mr. Lock.

Mr. Roach for today, on motion of Mr. Davis of Upshur.

Mr. Riviere for today, on motion of Mr. Voigt.

The following Member was granted leave of absence on account of illness:

Mr. Hankamer for today, on motion of Mr. Thornton.

HOUSE BILL NO. 340 ON PAS-
SAGE TO ENGROSSMENT

The Speaker laid before the House, as unfinished business, on its passage to engrossment,

H. B. No. 340, A bill to be entitled "An Act declaring the purpose of this enactment; providing for payment of old age assistance benefits; fixing qualifications of those entitled to receive old age assistance; defining the term 'needy person' and other words and terms used in this Act; fixing amount of assistance to be granted by the State; providing for preparation and execution of applications for assistance and supporting affidavits; creating Texas Old Age Commission, and providing for membership of such Commission, etc., and declaring an emergency."

The bill having heretofore been read second time.

Mr. Keith offered the following amendment to the bill:

Amend House Bill No. 340, by striking out all below the enacting clause and substituting in lieu thereof the following:

Article I

"Section 1. That Section 2, of Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, be, and it is hereby, amended to read as follows:

"Section 2. A tax for Two Dollars (\$2.00) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Three Dollars and Sixty Cents (\$3.60) per thousand on those weighing more than three (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person in Texas, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual package or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale. Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required.

"Provided, that the tax imposed shall be in lieu of any other occupation or excise tax imposed by the State or any political subdivision thereof on cigarettes.

"Cigarette stamps shall be sold by the Treasurer in unbroken sheets of one hundred (100) stamps only and shall be purchased from and sold only by said Treasurer, except as herein-after provided. When the Comptroller deems it proper to accept the compromise provided for in Section 22,

and the offender does not possess sufficient unused stamps to cover his unstamped stock of cigarettes, then and in that event the offender may purchase the required stamps from any distributor through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately under the direction of the Comptroller, and the Comptroller shall have the authority to issue such requisition, which shall be made in triplicate on a form prescribed by the Comptroller with the printed words 'Original,' 'Duplicate,' and 'Triplicate' on the respective sheets thereof. The original requisition shall be kept by the Comptroller and the duplicate and triplicate shall be delivered to the purchaser and seller of said stamps, respectively, who shall hold such copies of such requisition at all times open to the inspection of the Comptroller and the Attorney General for a period of two (2) years. The Comptroller shall have the power and authority in the enforcement of this Act to recall any stamps which have been sold by said Treasurer and which have not been used and it shall be the duty of said Treasurer upon receipt of such recalled stamps to issue stamps of other serial numbers therefor. The purchaser of any stamps shall be required to surrender any unused stamps for exchange upon demand of said Comptroller."

Article II

"Section 1. That Section 2 of Article 7057a of the Revised Civil Statutes of Texas, 1925, same being Section 2, Chapter 162, Acts of the Forty-third Legislature, Regular Session, 1933, as amended by Acts of the First Called Session of the Forty-third Legislature, 1933, Chapter 12, Section 1, as amended by the Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Chapter 495, Article 4, Section 4, be amended so as to read hereafter as follows:

"Sec. 2 (1). There is hereby levied an occupation tax on oil produced within this State from any well producing daily more than 20 barrels, averaged over the preceding 30 consecutive days, of four cents (4c) per barrel of forty-two (42) standard gallons. Provided, however, that the occupation tax herein levied on such oil shall be four per cent (4%) of the market value of said oil whenever the market value is in excess of One Dol-

lar (\$1.00) per barrel of forty-two standard gallons.

"(2) Provided, however, there is levied an occupation tax on oil produced within this State from any well producing daily more than 10 barrels and not more than 20 barrels, averaged over the preceding 30 consecutive days, of three and one-half cents (3 1/2c) per barrel of forty-two (42) standard gallons. Provided, however, that the occupation tax herein levied on such oil shall be three and one-half per cent (3 1/2%) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1.00) per barrel of forty-two (42) standard gallons.

"(3) Provided, however, there is levied an occupation tax on oil produced within this State from any well producing more than five (5) barrels and not more than ten (10) barrels, averaged over the preceding thirty (30) consecutive days, of three cents (3c) per barrel of forty-two standard gallons. Provided, however, that the occupation tax herein levied on such oil shall be three per cent (3%) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1.00) per barrel of forty-two (42) standard gallons.

"(4) Provided, however, there is levied an occupation tax on oil produced within this State from any well producing not more than five (5) barrels, averaged over the preceding 30 consecutive days, of two and three-fourths cents (2 3/4c) per barrel of forty-two (42) standard gallons. Provided, however, that the occupation tax herein levied on such oil shall be two and three-fourths per cent (2 3/4%) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1.00) per barrel of forty-two (42) standard gallons.

"(5) The tax herein levied shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing 100 per cent (100%) of production and exact measurements of contents.

"(6) The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such oil will reasonably bring, if produced

in accordance with the laws, rules and regulations of the State of Texas.

"(7) The tax herein levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

"(8) The purchaser of oil shall pay the tax on all oil purchased and deduct the tax so paid from the payment due the producer or other interest holders, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which produced, the said producer shall pay the tax at the same rate and in the same manner as if said oil were sold.

"(9) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer, as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment and shall be entitled to reasonable attorney's fees and court costs incurred by such legal action.

"(10) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth day of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added. Such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

"(11) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and purchasers of oil are hereby authorized and required to withhold from any payment due interested parties the proportionate tax due and remit the same to the Comptroller.

"(12) On notice from the State Comptroller, it shall be unlawful for any person to remove any oil from any lease in this State whenever the owner or operator of said lease has failed to file reports as required under the provisions of this Act.

"(13) Whenever any lease producing oil changes hands, it shall be the duty of the owner or operator of said lease to note on his last report that said lease has been sold or transferred, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, co-partnership, corporation, agency, trustee, or receiver who will operate said lease and be responsible for the filing of reports provided for in this Act. It further shall be the duty of the new owner or operator of said lease to note on his first report that said lease has been acquired, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, co-partnership, corporation, agency, trustee or receiver formerly owning or operating said lease.

"(14) If any producer or purchaser of crude oil or subsequent purchaser, fails or refuses to pay any tax, penalty, or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceeding, any report filed in the office of the Comptroller by such producer or purchaser or representative of said producer or purchaser; or a certified copy thereof certified to by the Comptroller of Public Accounts, showing the amount of crude oil produced or purchased on which such tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said producer or purchaser when filed and sworn to by such representative as being made from the records of said producer or purchaser, shall be admissible in evidence in any such proceeding and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

"In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said producer or purchaser,

and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid; and that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the provisions of said Article are hereby made applicable to suits to collect taxes hereunder."

Article III

Section 1. That Section 3, Chapter 73, Acts of the Regular Session of the Forty-second Legislature, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, Chapter 495, Article 4, Section 8, be, and the same is hereby amended so as to read, as follows:

"Sec. 3 (1) A tax shall be paid by each such producer on the amount of gas produced and saved within this State, and on gas imported into this State upon the first sale thereof in intrastate commerce upon the following basis:

"A tax equivalent to four per cent (4%) of the market value of the total amount of gas produced and saved within this State, or sold if imported into this State, at the market value thereof as and when produced. The market value of gas, as that term is used herein, shall be the actual market value thereof, plus any bonus or premium, or other thing of value paid therefor or which such gas will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas. Provided, however, that if any gas is imported into this State from another State, in which latter State a severance, occupation or excise tax is imposed thereon, the person importing such gas shall not be required to pay another tax thereon under the provisions of this Act.

"For the purposes of this Act, the term 'cubic foot of gas' means volume of gas expressed in cubic feet and computed at a base pressure of four ounces per square inch above the average barometric pressure of 14.4 pounds per square inch, a standard base and flowing temperature of sixty

(60) degrees Fahrenheit; correction to be made for pressure according to Boyle's Law, and for specific gravity according to test made by the Balance Method.

"The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of such producer to keep accurate records of all gas produced, making monthly reports under oath as hereinafter provided.

"The purchaser of gas shall pay the tax on all gas purchased and deduct the tax so paid from the payment due the producer or other interest holders, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer.

"Provided, that if gas produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the same manner as if said gas were sold.

"The tax herein levied shall be paid monthly on the twenty-fifth day of each month on all gas produced during the month next preceding by the purchaser or the producer, as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney's fees and court costs incurred by such legal action."

(2) On notice from the State Comptroller, it shall be unlawful for any person to remove any natural or casinghead gas from any lease in this State whenever the owner or operator of said lease has failed to file reports as required under the provisions of this Act.

(3) Whenever any lease producing natural or casinghead gas changes hands, it shall be the duty of the owner or operator of said lease to note on his last report that said lease has been sold or transferred, showing the effective date of said change and the name and address of the individual, firm, association, joint stock

company, syndicate, co-partnership, corporation, agency, trustee or receiver who will operate said lease and be responsible for the filing of reports provided for in this Act. Further, it shall be the duty of the new owner or operator of said lease to note on his first report that said lease has been acquired, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, co-partnership, corporation, agency, trustee or receiver formerly owning or operating said lease.

(4) If any producer or purchaser of natural or casinghead gas fails or refuses to pay any tax, penalty, or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceeding, any report filed in the office of the Comptroller by such producer or purchaser or representative of said producer or purchaser, or a certified copy thereof certified to by the Comptroller of Public Accounts, showing the amount of natural or casinghead gas produced and the value thereof on which any tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said producer or purchaser, when filed and sworn to by such Comptroller or his representative as being made from the records of said producer or purchaser, shall be admissible in evidence in such proceeding and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said producer or purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid and that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as

prima facie evidence thereof, and the provisions of said Article are hereby made applicable to suits to collect taxes hereunder.

Article IV.

Section 1. That Section 40A of Article 7047, Revised Civil Statutes of Texas, 1925, as amended by Acts, 1931, Forty-second Legislature, Regular Session, page 355, Chapter 212, Section 1, as amended by Acts, 1936, Forty-fourth Legislature, Third Called Session, page 2040, Chapter 495, Article 4, Section 6, be, and the same is hereby, amended so as to read as follows:

"40A. Sulphur producers. Each person, firm, association or corporation who owns, controls, manages, leases or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than individual, sworn to by its president, secretary or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar and Thirty-seven Cents (\$1.37) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the quarter in which the business was begun shall be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person was engaged in the business during said preceding quarter and multiplying the quotient by ninety, and multiplying the product by One Dollar and Fifty Cents (\$1.50). Said tax shall be in lieu of the tax imposed by House Bill No. 251, Chapter 212, Acts of the

Regular Session of the Forty-second Legislature, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act, except that said funds shall be allocated as hereinafter provided."

Article V

Section 1. That Article 7117, Revised Civil Statutes of the State of Texas, 1925, (Acts, Thirty-eighth Legislature, Second Called Session, Chapter 29, page 63, Section 2), as amended by Acts, 1929, Forty-first Legislature, First Called Session, page 109, Chapter 50, be, and the same is hereby, amended so as to read as follows:

"Article 7117. All property within the jurisdiction of this State, real or personal, corporate or incorporate, and any interest therein, including property passing by virtue of the exercise of power of appointment, including all life insurance made payable to a named beneficiary or beneficiaries in excess of \$40,000.00, whether belonging to inhabitants of this State or to persons who are not inhabitants, regardless of whether such property is located within or without this State, which shall pass absolutely or in trust by will or by the laws of descent or distribution of this or any other State, or by deed, grant, sale or gift made or intended to take effect in possession or enjoyment after the death of the grantor or donor, shall, upon passing to or for the use of any person, corporation or association, be subject to a tax to be allocated in other Sections of this bill, in accordance with the following classification. Any transfer made by a grantor, vendor or donor, whether by deed, grant, sale, or gift, shall, unless shown to the contrary, be deemed to have been made in contemplation of death and subject to the same tax as herein provided, if such transfer is made within two years prior to the death of the grantor, vendor, or donor, of a material part of his estate, or if the transfer made within such period is in the nature of a final distribution of property and without adequate valuable consideration."

Section 2. That Article 7118, Revised Civil Statutes of the State of Texas, 1925, as amended by Acts, 1935, Forty-fourth Legislature, Chapter 356, page 922, paragraph 1, be,

and the same is hereby, amended so as to read as follows:

"Article 7118. Class A. Rate of Tax. If passing to or for the use of husband or wife, or any direct lineal descendant of husband or wife, or ascendant of the decedent, or to legally adopted child or children, or any direct lineal descendant of legally adopted child or children, or to the husband of a daughter or the wife of a son, the tax shall be one per cent on any value in excess of Ten Thousand Dollars and not exceeding Twenty-five Thousand Dollars; two per cent on any value in excess of Twenty-five Thousand Dollars and not exceeding Fifty Thousand Dollars; three per cent on any value in excess of Fifty Thousand Dollars and not exceeding One Hundred Thousand Dollars; four per cent on any value in excess of One Hundred Thousand Dollars and not exceeding Two Hundred Thousand Dollars; five per cent on any value in excess of Two Hundred Thousand Dollars and not exceeding Four Hundred Thousand Dollars; six per cent on any value in excess of Four Hundred Thousand Dollars and not exceeding Seven Hundred Thousand Dollars; seven per cent on any value in excess of Seven Hundred Thousand Dollars and not exceeding One Million Dollars; and eight per cent on any value in excess of One Million Dollars."

Section 3. That Article 7119, Revised Civil Statutes of the State of Texas, 1925, as amended by Acts, 1927, Fortieth Legislature, Chapter 62, page 87, Section 1, be, and the same is hereby, amended so as to read as follows:

"Article 7119. Class B. Rate of Tax. If passing to any religious, educational or charitable organization located within the State and the bequest is to be used within this State, it shall be exempt from the payment of a tax under this law.

"If passing to any city, town or county within the State, or to the State of Texas, or to the United States to be used in this State, the tax shall be one per cent on any value in excess of Ten Thousand Dollars and not exceeding Twenty-five Thousand Dollars; two per cent on any value in excess of Twenty-five Thousand Dollars and not exceeding Fifty Thousand Dollars; three per cent on any value in excess of Fifty Thousand

Dollars and not exceeding One Hundred Thousand Dollars; four per cent on any value in excess of One Hundred Thousand Dollars and not exceeding Two Hundred Thousand Dollars; five per cent on any value in excess of Two Hundred Thousand Dollars and not exceeding Four Hundred Thousand Dollars; six per cent on any value in excess of Four Hundred Thousand Dollars and not exceeding Seven Hundred Thousand Dollars; seven per cent on any value in excess of Seven Hundred Thousand Dollars and not exceeding One Million Dollars; and eight per cent on any value in excess of One Million Dollars."

Section 4. That Article 7120, Revised Civil Statutes of the State of Texas, 1925, be, and the same is hereby, amended so as to read as follows:

"Article 7120. Class C. Rate of Tax. If passing to or for the use of a brother or sister, or direct lineal descendant of a brother or sister of the decedent, the tax shall be three per cent on any value in excess of Five Thousand Dollars and not exceeding Ten Thousand Dollars; four per cent on any value in excess of Ten Thousand Dollars and not exceeding Twenty-five Thousand Dollars; five per cent on any value in excess of Twenty-five Thousand Dollars and not exceeding Fifty Thousand Dollars; six per cent on any value in excess of Fifty Thousand Dollars and not exceeding One Hundred Thousand Dollars; seven per cent on any value in excess of One Hundred Thousand Dollars and not exceeding Two Hundred and Fifty Thousand Dollars; eight per cent on any value in excess of Two Hundred and Fifty Thousand Dollars and not exceeding Five Hundred Thousand Dollars; ten per cent on any value in excess of Five Hundred Thousand Dollars and not exceeding One Million Dollars; and twelve per cent on any value in excess of One Million Dollars."

Section 5. That Article 7121, Revised Civil Statutes of the State of Texas, 1925, be, and the same is hereby, amended so as to read as follows:

"Article 7121. Class D. Rate of Tax. If passing to or for the use of an uncle or aunt, or a direct lineal descendant of an uncle or aunt of the decedent, the tax shall be four per cent on any value in excess of One

Thousand Dollars and not exceeding Five Thousand Dollars; five per cent on any value in excess of Five Thousand Dollars and not exceeding Ten Thousand Dollars; six per cent on any value in excess of Ten Thousand Dollars and not exceeding Twenty-five Thousand Dollars; seven per cent on any value in excess of Twenty-five Thousand Dollars and not exceeding Fifty Thousand Dollars; eight per cent on any value in excess of Fifty Thousand Dollars and not exceeding One Hundred Thousand Dollars; ten per cent on any value in excess of One Hundred Thousand Dollars and not exceeding Two Hundred and Fifty Thousand Dollars; twelve per cent on any value in excess of Two Hundred and Fifty Thousand Dollars and not exceeding Five Hundred Thousand Dollars; fourteen per cent on any value in excess of Five Hundred Thousand Dollars and not exceeding One Million Dollars; and sixteen per cent on any value in excess of One Million Dollars."

Section 6. That Article 7122, Revised Civil Statutes of the State of Texas, 1925, as amended by Acts, 1927, Fortieth Legislature, Chapter 62, page 87, Acts, 1931, Forty-second Legislature, Chapter 72, page 109, Acts, 1933, Forty-third Legislature, Chapter 192, page 581, Section 2-b, Subsection 20, be, and the same is hereby, amended so as to read as follows:

"Article 7122. Class E. Rate of Tax. If passing to or for the use of the United States, to or for the use of any other person or religious, educational or charitable organization or institution, or to any other person, corporation, or association not included in any of the classes mentioned in the preceding portions of the original Act known as Chapter 29 of the General Laws of the Second Called Session of the Thirty-eighth Legislature, the tax shall be: Five per cent on any value in excess of Five Hundred Dollars and not exceeding Five Thousand Dollars; six per cent on any value in excess of Five Thousand Dollars and not exceeding Ten Thousand Dollars; seven per cent on any value in excess of Ten Thousand Dollars and not exceeding Twenty-five Thousand Dollars; eight per cent on any value in excess of Twenty-five Thousand Dollars and not exceeding Fifty Thousand Dollars; ten per cent on any value in excess of Fifty Thou-

sand Dollars and not exceeding One Hundred Thousand Dollars; twelve per cent on any value in excess of One Hundred Thousand Dollars and not exceeding Two Hundred and Fifty Thousand Dollars; fifteen per cent on any value in excess of Two Hundred and Fifty Thousand Dollars and not exceeding Five Hundred Thousand Dollars; eighteen per cent on any value in excess of Five Hundred Thousand Dollars and not exceeding One Million Dollars; and twenty-four per cent on any value in excess of One Million Dollars."

Article VI

Section 1. That Article 7084 of the Revised Civil Statutes of 1925, as amended by the Acts of 1930, Forty-first Legislature, Fifth Called Session, page 220, Chapter 68, Section 2, as amended by the Acts of 1931, Forty-second Legislature, page 441, Chapter 265, Section 1, be, and it is hereby amended so as to read, as follows:

"Article 7084. Amount of Tax—

(A) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, shall, on or before May 1, of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed at the following rates for each One Thousand (\$1,000.00) Dollars or fractional part thereof: One Dollar (\$1.00) to One Million (\$1,000,000) Dollars, Ninety Cents (90c); in excess of One Million (\$1,000,000.00) Dollars, Forty-five Cents (45c); provided, that such tax shall not be less than Twenty (\$20.00) Dollars in the case of any corporation, including those without capital stock. Where a foreign corporation applying for a permit has theretofore done no business in Texas, such tax shall not be payable until the end of one year from the date of such permit, at which time the tax shall be computed according to first year's business; and, at the same time, such corporation shall also pay its tax in advance, based

upon the first year's business, for the period from the end of the first year to and including May 1, following. In all other cases, the tax shall be computed from the data contained in the reports required by Articles 7087 and 7089. Capital stock as applied to corporations without capital stock shall mean the net assets.

"(B) Corporations which are now required by law to pay annually a tax upon intangible assets, corporations owning or operating street railways in or upon the public streets of any town or city, and corporations organized to maintain or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth (1/5) of the franchise tax herein imposed against all other corporations under Section (A) herein.

"(C) Provided, however, that this Act shall not apply to corporations organized as terminal companies not organized for profit, and having no income from the business done by them.

"(D) Except as provided in preceding clauses (B) and (C), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility whose rates or services are regulated, or subject to regulation in whole or in part, by law, shall pay a franchise tax as provided in this Act, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus and undivided profits, which the gross receipts of the business of said corporation done in this State bears to its total gross receipts, instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed as follows:

"One Dollar (\$1.00) to One Million Dollars (\$1,000,000), Ninety-seven Cents (97c) for each One Thousand Dollars (\$1,000), or fractional part thereof;

"Sixty-seven Cents (67c) for each One Thousand Dollars (\$1,000) or fractional part thereof in excess of One Million Dollars (\$1,000,000) and not exceeding Ten Million Dollars (\$10,000,000);

"And Fifty-two Cents (52c) for each One Thousand Dollars (\$1,000) or fractional part thereof in excess of Ten Million Dollars (\$10,000,000).

"For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and

considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

"(E) Corporations engaged partly in the business of a public utility as defined in Clause (D) and partly in businesses embraced in Clause (A) shall pay the franchise tax in the following manner: As to those businesses which come under Clause (A) the tax shall be computed as provided in Clause (A) on that proportion of the entire taxable capital under said Clause (A) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and as to those businesses which come under Clause (D) on that proportion of the entire taxable capital under said Clause (D) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be the same period used in computing the proportion of Texas taxable capital under Clauses (A) and (D).

"(F) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth (1/4) of such amount for each additional purpose named in their charters."

Article VII

Section 1. That Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Article 4, Section 1, House Bill No. 8, be, and the same is hereby amended so as to read, as follows:

"Article 7070. (1) Each individual, company, corporation or association owning, operating, managing or controlling any telephone line or lines or any telephones within this State, and charging for the use of same, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing

the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone or telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations and associations, at the time of making said reports, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half (1 1/2%) per cent of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand five hundred (2,500) inhabitants, according to the last preceding Federal Census; and an occupation tax for the quarter beginning on said date, equal to one and three-fourths per cent (1 3/4%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census.

"(2) No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise, shall impose an occupation tax or charge of any sort for the privilege of doing business, upon any person, corporation or association required to pay an occupation tax under this Article; provided, that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax now imposed by franchise, and provided further that this Article shall not affect any contract now in existence or hereafter made between a city and the holder of a franchise."

Article VIII

Section 1. That Article 7060, Revised Civil Statutes of 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be, and the same is hereby amended so as to read, as follows:

"Article 7060. Each individual, company, corporation or association,

owning, operating, managing or controlling any gas, electric light, electric power or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first days of January, April, July, and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation or association, at the time of making said report for any such incorporated town or city of two thousand, five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to eight-tenths of one per cent ($\frac{8}{10}$ of 1%) of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and one-half per cent ($1\frac{1}{2}\%$) of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association, and distributed by another, the tax shall be paid by the distributor alone.

"No city or other political subdivision of this State, by virtue of its

taxing power, police power or otherwise, shall impose an occupation tax or charge of any sort for the privilege of doing business, upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax imposed by franchise, and provided further that this Article shall not affect any contract now in existence or hereafter made between a city and the holder of a franchise."

Article IX

Section 1. There is hereby levied upon every user or consumer of electric energy or natural gas, except industrial users or consumers, and upon all sales of service to telephone subscribers for the transmission of messages and conversations, both local and long distance, and upon the sale, rental or leasing of all equipment and services pertaining or incidental thereto, a tax equivalent to one per cent (1%) of the price paid or promised to be paid therefor, which tax shall be added to the bill of the purchaser of such utility service and collected by the seller, provided however, that in computing the tax fractions of a cent shall be disregarded unless such fraction is in excess of one half of one cent in which case one cent (1c) shall be collected.

The term "industrial user or consumer" as used in this Section shall include the State of Texas, the Federal Government, and all political subdivisions and agencies of each, and all purchasers buying electric energy or natural gas for resale, or for industrial purposes. On the first days of January, April, July and October of each year, each individual, company or corporation, municipal or private, owning, operating, managing or controlling any electric utility or gas utility distributing electric energy or natural gas to consumers and users, or any telephone line or lines or any telephones, within this State, and charging for the use of the same, shall report to the Comptroller under oath of the Mayor, Manager or Superintendent, if a municipal corporation, and of the President or Treasurer, if a private corporation, showing the total gross receipts classified in conformity with this article, and the amount of taxes collected for the quarter next preceding, and at the

time of filing such report shall pay to the Comptroller the taxes collected from consumers and users under this Act.

If any private utility shall fail or refuse to collect and pay to the Comptroller the taxes levied on its customers by this Act, suit against such utility in the District Court of Travis County to recover the same for the State shall be filed by the Attorney General at the request of the Comptroller. It shall be the duty of the Mayor, aldermen or councilmen of municipalities owning or operating gas and electric utilities, or distribution systems, or any telephone line or lines or telephones, to collect, or cause to be collected, the taxes hereby levied, and to pay the same to the Comptroller, and a failure to do so shall be ground for removal from office at the suit of the Attorney General. A writ of mandamus shall issue upon application of the Attorney General to compel compliance with this Act on the part of the Mayor and Aldermen or Councilmen of any city owning or operating a gas utility or distribution system, or any telephone line or lines or telephones.

The tax here levied is not an occupation tax and no city or other political sub-division of this State, by virtue of its taxing power, police power or otherwise, shall impose an occupation tax or charge of any sort measured by gross receipts or otherwise, for the privilege of doing business upon any individual, company or corporation required to collect and pay the taxes levied in this Article; provided that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax now imposed by a franchise, and provided further that this Article shall not affect any contract now in existence or hereafter made between a city and the holder of a franchise.

Article X

Section 1. There is hereby levied and imposed a tax upon the first sale of a new motor vehicle in this State at the rate of one per cent (1%) of the retail price at the point of delivery, said tax to be collected by the assessor and collector of taxes of the county in which said motor vehicle is first registered at the time of the registration of said motor vehicle and the issuance of the license thereon.

It shall be the duty of such assessor and collector of taxes to remit all taxes collected under the provisions of this Section on the first day of each month to the Comptroller of Public Accounts of this State.

Sec. 2. There is hereby exempted from the tax herein levied in Section 1 hereof all fire engines and their appliances, ambulances, tractors, and all vehicles that run upon rails or tracks or that are propelled by electric power furnished by any means of overhead wires, and all motor vehicles purchased by the State of Texas, the government of the United States, and all political subdivisions and agencies of each.

Sec. 3. Whenever the term "Motor Vehicle" is used in this Article, except when otherwise expressly provided, it shall be taken to include all vehicles, including motor bicycles, motorcycles, semi-trailers, trailers, tractors, traction engines, and motor boats, designed, constructed or intended to be propelled or drawn by any power other than muscular power. The term "new motor vehicle" for the purposes of this law is defined to mean a motor vehicle, the ownership of which is in a manufacturer, dealer or distributor, and which has never been so used as to destroy its newness or to convert it into or make it a used or second-hand vehicle as these terms are commonly used or understood in trade or business.

Article XI

Section 1. There is hereby levied, assessed and imposed upon the sale of the articles hereinafter enumerated in this Section the following taxes:

(a) Upon all jewelry and precious stones retailing for more than Five (\$5.00) Dollars, two (2%) per cent of the retail selling price thereof at the point of delivery.

(b) Upon all furs, two (2%) per cent of the retail selling price thereof at the point of delivery.

(c) Upon all silverware one (1c) for each fifty (50c) cents, or fractional part thereof, of the retail selling price of same at the point of delivery.

(d) Upon all golf clubs, golf balls, tennis rackets, tennis balls, base balls, base ball bats, base ball gloves, testing rods and reels, one (1c) cent on each fifty (50c) cents, or fractional part thereof, of the retail selling price, of same at the point of delivery.

(e) Upon all oil paintings, two (2%) per cent of the retail selling price at the point of delivery.

(f) On all mirrors selling for more than Ten (\$10) Dollars retail, two (2%) per cent of the retail sales price at the point of delivery.

(g) On all cameras selling for more than Ten (\$10) Dollars retail, two (2%) per cent of the retail selling price at the point of delivery.

(h) On all electrical appliances selling for more than Five (\$5) Dollars, two (2%) per cent of the retail selling price at the point of delivery.

(i) Upon all gas ranges and gas refrigerators, two (2%) per cent of the retail selling price at the point of delivery.

(j) Upon all tile, two (2%) per cent of the retail selling price at the point of delivery.

(k) Upon all furniture retailing as an individual piece for more than Fifty (\$50.00) Dollars and upon all suites of furniture retailing for more than One Hundred (\$100.00) Dollars, two (2%) per cent of the retail selling price at the point of delivery.

(l) Upon all rugs selling for more than Fifty (\$50.00) Dollars, two (2%) per cent of the retail selling price at the point of delivery.

(m) Upon all pianos selling for more than Three Hundred (\$300.00) Dollars retail, two (2%) per cent of the retail selling price at the point of delivery.

(n) On all other musical instruments selling for more than One Hundred and Fifty (\$150.00) Dollars retail, two (2%) per cent of the retail selling price.

(o) Upon all cosmetics and perfume retailing at fifty (50c) cents per item, or more, one (1c) cent for each fifty (50c) cents or fraction of the retail price.

(p) Upon all china ware and crystal retailing at twenty-five (25c) cents per item, or more, one (1c) cent for each fifty (50c) cents or fraction of the retail price at the point of delivery.

(q) Upon all dresses or suits of clothing and all other wearing apparel retailing for more than Twenty-five (\$25.00) Dollars, two (2%) per cent of the retail price at the point of delivery.

(r) Upon all candy retailing at twenty-five (25c) cents per pound or more, one (1c) cent for each ten (10c)

cents or fraction of the retail price, provided that individual factory wrapped packages or candy retailing at ten (10c) cents, or less, shall not be taxable.

(s) Upon all playing cards a tax of five (5c) cents on each fifty (50c) cents or fractional part thereof of the retail selling price, the stamps in all such cases to be affixed to the individual packages.

Section 2. The Comptroller of this State is hereby empowered and designated as the collecting agent of the taxes levied and imposed in this Article, and he is hereby endowed and given all necessary power and authority to promulgate and impose such rules and regulations and to institute such methods as he may deem necessary, expedient, and proper to efficiently and economically make such collections.

Section 3. Any person failing to remit to the Comptroller within thirty days from the date of the sale of any article listed hereinabove in this Article, the tax levied herein upon said Article, shall be deemed in violation of the provisions of this Act, and shall be fined not less than Two Hundred (\$200.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, and all costs of court, and each such sale shall be deemed a separate offense.

Article XII

Section 1. Every person dealing in firearms, cartridges and shells in this State upon which a tax is due under the provisions of this Act, shall make and deliver to the Comptroller in Austin, Travis County, Texas, on the tenth (10th) day of each month a report for the preceding calendar month, which report shall be properly sworn to and executed by said person, or his representative in charge, and which shall show the date said report was executed, the name and address of said person making the report, the month which the report covers, the number of firearms, cartridges or shells on hand at the beginning of the month, the number of firearms, cartridges or shells purchased and received during the month, the number of firearms, cartridges or shells returned from customers or received from any other source, the number of firearms, cartridges or shells sold, used, lost, stolen, returned to the factory or disposed

of in any other manner, and the number of firearms, cartridges or shells on hand at the end of the month; provided, that said report shall reflect separately the number of firearms, cartridges or shells sold or disposed of upon which the tax has already been paid from those sold or disposed of upon which a tax is due. The said report shall also show separately the number of firearms, cartridges or shells sold or disposed of in intrastate commerce and the number sold or disposed of in interstate commerce. At the time of making and delivering said report the full amount of the tax due shall be paid to the Comptroller of Public Accounts in Austin, Travis County, Texas, for the calendar month the report covers.

Section 2. There is hereby levied upon all firearms, cartridges or shells sold, distributed, or otherwise disposed of in this State, for any purpose whatsoever, a tax in the amounts as set forth by the following schedule:

(a) Upon every firearm, one per cent (1%) of the price received for such firearms; or if disposed of in any manner in which no sale is involved, one per cent (1%) of the usual retail value of such firearm.

(b) Upon all shotgun or other shells, two cents (2c) for each five (5) rounds, or fraction thereof.

(c) Upon all cartridges, twenty-three (23) caliber or greater, two cents (2c) for each five (5) rounds, or fraction thereof.

(d) Upon all cartridges, twenty-two (22) caliber or less, one cent (1c) for each ten (10) rounds, or fraction thereof.

The tax on cartridges or shells shall be paid only once by the person who makes the first sale, the first distribution, or the first disposal of the same in this State, whichever transaction occurs first. The tax on firearms as that term is defined herein shall be paid on each and every sale or disposal of the same in intrastate commerce in this State. Provided, however, that the tax levied by this Act shall not apply to firearms, cartridges or shells sold to the United States, or to the State of Texas, or any political subdivision or agency of either, including the National Guard of the State of Texas.

The term "firearm" whenever used in this Act shall be construed to mean and include every pistol, revolver,

rifle, Winchester, shotgun and every other similar weapon from which a charge can be expelled by an explosive.

The words "cartridges or shells" when used together or separately in this Act shall be construed to mean any and all kinds of cartridges or shells used as ammunition in shotguns, Winchesters, rifles, targets, six shooters, pistols, revolvers, and all guns of a like or similar design or manufacture.

Article XIII

Section 1, (a) There shall be levied, assessed, collected and paid: (1) A tax of one cent (1c) for each twenty-five cents (25c), or fraction thereof, of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in case the amount paid for admission is less than thirty-five (35c), no tax shall be imposed. In the case of persons (except bona fide employees, municipal officers on official business, and children under twelve (12) years of age) admitted free, or at reduced rates, to any place at a time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected, based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscriber for a single admission is less than thirty-five cents (35c).

(b) The term "admission" as used in this Act includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

(2) Upon tickets or cards of admission to theatres, operas and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theatres, operas and other places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to one cent (1c) on each twenty-five cents (25c) of the amount of such excess.

(3) In the case of persons having the permanent use of boxes or seats in an opera house, or any place of amusement, or a lease for the use of such box or seat in such opera house, or place of amusement, a tax equivalent to one cent (1c) on each twenty-five cents (25c), or fraction thereof, of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder, which shall be in lieu of the tax imposed by paragraph (1)).

(4) A tax of one cent (1c) for each twenty-five cents (25c), or fraction thereof, of the amount paid for admission to any other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshment, service or merchandise, the amount paid for such admission to be deemed to be twenty per cent (20%) of the amount paid for refreshment, service and merchandise; such tax to be paid by the person paying for such refreshment, service or merchandise. Where the amount paid for admission is less than thirty-five cents (35c) no tax shall be imposed.

(5) The price (exclusive of tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped or written on the face or back of that part of the ticket which is to be taken up by the management of the theater, opera or other place of amusement, together with the name of the vendor if sold at other than the ticket office of the theater, opera or other place of amusement. Whoever sells an admission ticket or card on which the name of the vendor and price is not so printed, stamped, or written, or at a price in excess of the price so printed, stamped or written thereon, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Fifty (50.00) Dollars.

Section 2. (a) There shall be levied, assessed, collected and paid, a tax equivalent to four (4) per centum of any amount paid:

(1) As dues or membership fees to any social, athletic or sporting club or organization, if the dues or fees of an active resident annual member

are in excess of Fifteen (\$15.00) Dollars per year; or

(2) As initiation fees to such a club or organization, if such fees amount to more than Ten (\$10.00) Dollars, or if the dues or membership fees, not including initiation fees, of an active resident annual member are in excess of Fifteen (\$15.00) Dollars per year.

(b) Such taxes shall be paid by such person paying the dues or fees.

(c) There shall be exempted from the provisions of this Section all amounts paid as dues or fees to a fraternal society, order or association operating under the lodge system, or to any local fraternal organization among the students of a college or university. In the case of life memberships, a life member shall pay annually, at the time for the payment of dues by active resident annual members, a tax equivalent to the tax upon the amount paid by such a member for dues or membership fees other than assessments, but shall pay no tax upon the amount paid for life membership.

(d) As used in this Section, the term "dues" includes any assessment irrespective of the purpose for which made; and the term "initiation fees" includes any payment, contribution or loan required as a condition precedent to membership, whether or not any such payment, contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed or loaned.

Section 3. (a) Every person receiving any payment for such admission fees or dues shall collect the amount of tax imposed by Sections 1 and 2 of this Article from the person making such payments. Every club or organization having life members shall collect from such members the amount of the tax imposed by Section 2. Such persons shall make return under oath, and remit the taxes so collected to the Comptroller of Public Accounts in cash or by money order or cashier's check made payable to the State Treasurer, within thirty (30) days after the first day of each month for the calendar month next preceding said first day of each month.

Section 4. The taxes levied in this Article shall be in addition to the

taxes now levied on theaters, dance halls and other amusements, and the taxes herein levied shall include admissions to amusements and admissions of every nature not herein expressly excepted.

Article XIV

Section 1. All revenue derived from and collected under the provisions of this Act by the State of Texas, except as herein expressly provided to the contrary, shall be deposited in an account to be set up and administered by the proper administrative officials, which fund shall be known as the "Available Social Security Fund," and from said fund the revenues so derived and collected shall be transferred and allocated as follows:

(1) To the Available School Fund: one-fourth ($\frac{1}{4}$) of the revenue collected under Article I of this Act; one-third ($\frac{1}{3}$) of the net revenue collected under Article II of this Act; one-fourth ($\frac{1}{4}$) of the net revenue collected under Article III of this Act; one-fourth ($\frac{1}{4}$) of the revenue collected under Article IV of this Act; one-fourth ($\frac{1}{4}$) of the revenue collected under Article VII of this Act; one-fourth ($\frac{1}{4}$) of the revenue collected under Article VIII of this Act; one-fourth ($\frac{1}{4}$) of the revenue collected under Article IX of this Act; one-half ($\frac{1}{2}$) of the revenue collected under Article X of this Act; one-third ($\frac{1}{3}$) of the revenue collected under Article XI of this Act; one-third ($\frac{1}{3}$) of the revenue collected under Article XII of this Act; and one-fourth ($\frac{1}{4}$) of the revenue collected under Article XIII of this Act.

(2) To the General Revenue Fund: one-third ($\frac{1}{3}$) of the net revenue collected under Article II of this Act; one-half ($\frac{1}{2}$) of the net revenue collected under Article III of this Act; one-half ($\frac{1}{2}$) of the revenue collected under Article IV of this Act; three-fourths ($\frac{3}{4}$) of the revenue collected under Article V of this Act; three-fourths ($\frac{3}{4}$) of the revenue collected under Article VI of this Act; one-half ($\frac{1}{2}$) of the revenue collected under Article VII of this Act; one-fourth ($\frac{1}{4}$) of the revenue collected under Article VIII of this Act; one-fourth ($\frac{1}{4}$) of the revenue collected under Article IX of this Act; and one-fourth ($\frac{1}{4}$) of the revenue collected under Article X of this Act.

(3) To the Division of Public Welfare of the Board of Control for the purpose of providing assistance to the blind in the manner prescribed by law: such part of Three Hundred Thousand (\$300,000.00) Dollars as the effective period of this Act for the fiscal year ending August 31, 1939, bears to the entire fiscal year, and there shall be transferred to such fund Three Hundred Thousand (\$300,000.00) Dollars for each fiscal year thereafter as required, the said amounts to be provided on the basis of equal monthly installments.

(4) To the Division of Public Welfare of the Board of Control for the purpose of providing assistance to dependent and destitute children in the manner prescribed by law: such part of One Million, Five Hundred Thousand (\$1,500,000.00) Dollars as the effective period of this Act for the fiscal year ending August 31, 1939, bears to the entire fiscal year, and there shall be transferred to such fund One Million, Five Hundred Thousand (\$1,500,000.00) Dollars for each fiscal year thereafter as required, said amount to be provided on the basis of equal monthly installments.

(5) To the State Accumulation Fund created under the provisions of Acts of 1937, Forty-fifth Legislature, page 1178, Chapter 470, commonly known as the Teachers' Retirement Act, and for the purposes provided in such Act: such part of Two Million, Five Hundred Thousand (\$2,500,000.00) Dollars as the effective period of this Act for the fiscal year ending August 31, 1939, bears to the entire fiscal year, and there shall be transferred to such fund Two Million, Five Hundred Thousand (\$2,500,000.00) Dollars for each fiscal year thereafter, said amount to be provided on a basis of equal monthly installments; provided, that such amounts, or so much thereof as may be necessary, shall be used for the matching of teachers' contributions previously made in the same order in which such contributions were so made.

(6) To the Texas Old Age Assistance Fund there shall be transferred all amounts remaining in said "Available Social Security Fund" at the end of each calendar month after provision has been made for the allocations hereinabove mentioned.

Section 2. All taxes, fines, penalties and interest due by any individual,

firm, association, joint stock company, syndicate, co-partnership, corporation, agency, trustee or receiver to the State of Texas shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any individual, firm, association, joint stock company, syndicate, co-partnership, corporation, agency, trustee or receiver. This lien shall be cumulative and in addition to the liens for taxes, fines, penalties and interest now provided by law, and shall attach as of the date such tax or taxes are due and payable.

Section 3. All sales, occupation, excise or other taxes, penalties and interest accruing to the State of Texas by virtue of any of the repealed or amended provisions as set out in this Act before the effective date of this Act, shall be and remain valid and binding obligations to the State of Texas, and all taxes, fines, penalties and interest accruing under the provisions of prior or existing occupation, excise or other tax laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas are hereby expressly preserved and declared to be legal and valid obligations to the State of Texas.

Section 4. The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense.

Section 5. If any Article, Section, Subsection, sentence, clause or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Section 6. The Legislature hereby declares that it would have passed this Act and each Section, Subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the Sections, Subsections, sentences, clauses or phrases should be declared unconstitutional.

Section 7. All laws or parts of laws in conflict with any Section, Subsection, sentence, clause or phrase of this Act are hereby expressly repealed.

Section 8. The fact that the State of Texas is faced with an ever increasing deficit in the General Revenue Fund, Old Age Assistance Fund and Teachers' Retirement Fund; and the further fact that additional revenue is needed to carry out the mandate of the people of Texas for the purpose of providing assistance for the adult blind and dependent and destitute children creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after the date of its passage, and it is so enacted."

MORRIS,
KEITH,
HOLLAND,
DERDEN,
LANGDON,
KING,
BRIDGERS,
VINT.

(Pending consideration of the amendment, Mr. Little occupied the Chair temporarily.)

(Speaker in the Chair.)

Mr. Corry offered the following amendment to the bill:

Amend House Bill No. 340 by striking out the enacting clause.

Mr. Morris moved to table the amendment.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—118

Allen	Burkett
Allison	Burney
Alsup	Cauthorn
Bailey	Chambers
Baker	Cleveland
of Fort Bend	Cockrell
Baker of Grayson	Coleman
Bell	Colson, Mrs.
Blankenship	Cornett
Boethel	Crossley
Bond	Daniel
Boyd	Davis of Jasper
Bradbury	Davis of Upshur
Bridgers	Derden
Broadfoot	Dickison
Brown of Cherokee	Dickson
Brown	Dowell
of Nacogdoches	Faulkner
Bundy	Felty

Ferguson	Montgomery
Fielden	Morris
Fuchs	Newell
Galbreath	Oliver
Gilmer	Pace
Gordon, Mrs.	Pevehouse
Hale	Piner
Hamilton	Reader of Bexar
Hardeman	Reader of Erath
Hardin	Reaves
Harp	Reed
Harper	Rhodes
Harrell of Bastrop	Roberts
Harrell of Lamar	Robinson
Harris	Russell
Heflin	Skiles
Holland	Smith of Hopkins
Howington	Smith
Hull	of Matagorda
Hunt	Spencer
Isaacks	Stinson
Johnson of Ellis	Stoll
Keith	Talbert
Kennedy	Tarwater
Kern	Taylor
Kerr	Tennant
Kersey	Thornberry
King	Turner
Langdon	Vale
Lehman	Vint
Leyendecker	Voigt
Little	Waggoner
Lock	Weldon
Loggins	Wells
London	Westbrook
Mays	White
McDaniel	Wilson
McDonald	Winfree
McMurry	Wood
McNamara	Worley
Mohrmann	Wright
Monkhouse	

Nays—22

Anderson	Hartzog
Boyer	Howard
Bradford	Johnson of Tarrant
Bray	Kinard
Clark	McAlister
Colquitt	McFarland
Corry	Nicholson
Dean	Petsch
Donaghey	Pope
Dwyer	Segrist
Goodman	Thornton

Absent

Celaya	Shell
Leonard	Smith of Frio
Schuenemann	

Absent—Excused

Hankamer	Riviere
Ragsdale	Roach

Question—Shall the amendment offered by Mr. Keith be adopted?

MESSAGE FROM THE SENATE

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

S. B. No. 463, A bill to be entitled "An Act to amend Section 4 of House Bill No. 25, Chapter 24, of the General and Special Laws of the Forty-fifth Legislature, First Called Session, relating to the salary of County Auditors in certain counties; providing a saving clause; repealing all laws in conflict herewith, and declaring an emergency."

S. B. No. 470, A bill to be entitled "An Act to fix the maximum rate of tax to be levied for school purposes in all independent school districts which include within their limits a city or town which, according to the then latest Federal Census, had a population of not fewer than seventeen hundred and twenty-one (1,721) and not more than seventeen hundred and fifty-one (1,751) inhabitants, fixing the maximum tax rate which may be levied for bond sinking fund purposes; etc., and declaring an emergency."

H. B. No. 1041, A bill to be entitled "An Act providing for Twenty-five Dollars (\$25) expenses for County Commissioners in certain counties in this State; providing mode and manner of payment of such expense accounts; making this Act cumulative of all laws and parts of laws now in force in this State, and declaring an emergency."

H. B. No. 1054, A bill to be entitled "An Act providing for the payment of the traveling expenses of the Court Reporter of the One Hundred and Tenth Judicial District of Texas, composed of Briscoe, etc., and declaring an emergency."

The Senate has refused to concur in House amendments to Senate Bill No. 427 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senators Roberts, Aikin, Beck, Redditt and Weinert.

The Senate has concurred in House amendments to Senate Bill No. 187

by the following vote: Yeas, 28; Nays, 0.

The Senate has adopted

H. C. R. No. 142, Granting Susan Robertson, et al, the right to sue the State.

H. C. R. No. 153, Recalling House Bill No. 1080 to the House for further consideration.

H. C. R. No. 154, Congratulating Mr. Murray C. Sells of Gladewater on Second Annual Round-Up.

The Senate has passed

S. B. No. 192, A bill to be entitled "An Act authorizing Commissioners' Courts to acquire by purchase or by condemnation any new or wider right of way or land not exceeding one hundred (100) feet in width for stream bed diversion and drainage channels in connection with the locating, relocating, construction, reconstruction or maintenance of any public road; and to acquire by purchase or by condemnation land or lands for obtaining earth, stone, gravel or other material necessary or convenient to the construction, reconstruction, maintenance, widening, straightening, or lengthening of any public road and to pay for the same out of the County Road and Bridge Fund or out of any available county funds; repealing all laws in conflict herewith, and declaring an emergency."

Respectfully,

BOB BARKER,

Secretary of the Senate.

SENATE BILLS ON FIRST READING

The following Senate bills, received from the Senate, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

Senate Bill No. 463, to the Committee on Counties.

Senate Bill No. 470, to the Committee on Education.

Senate Bill No. 192, to the Committee on State Affairs.

BILLS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills:

S. B. No. 9, "An Act providing that there shall hereafter be paid out of the revenue of this State, on the last day of each month to each actual bona fide citizen of this State over the age of sixty-five years the sum of Fifteen (\$15.00) Dollars per month as old age assistance, providing that no habitual criminal, and no habitual drunkard, while such habitual drunkard, and no inmate of any State supported institution, while such inmate, shall be eligible for such old age assistance; providing that the length of time of actual residence in Texas shall never be less than five years during the nine years immediately preceding the application for old age assistance and continuously for one year immediately preceding such application, etc., and declaring an emergency."

H. B. No. 1041, "An Act providing for Twenty-five (\$25.00) Dollars expenses for County Commissioners in certain counties in this State; providing mode and manner of payment of such expense accounts; making this Act cumulative of all laws and parts of laws now in force in this State, and declaring an emergency."

H. B. No. 1054, "An Act providing for the payment of the traveling expenses of the Court Reporter of the 110th Judicial District of Texas, composed of Briscoe, Motley, Dickens and Floyd Counties, and declaring an emergency."

REQUEST OF SENATE GRANTED

On motion of Mr. Thornton, the House granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 427.

RECESS

Mr. Mays moved that the House recess until 2:30 o'clock p. m., today.

Mr. Harrell of Lamar moved that the House recess until 2:00 o'clock p. m., today.

The motion of Mr. Mays prevailed and the House, accordingly, at 12:20 o'clock p. m., took recess until 2:30 o'clock p. m., today.

AFTERNOON SESSION

The House met at 2:30 o'clock p. m., and was called to order by the Speaker.

HOUSE BILLS ON FIRST READING

Mr. Petsch asked unanimous consent, to introduce, at this time, and have placed on first reading, House Bill No. 1105.

There was no objection.

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. Petsch, Mr. Thornberry and Mr. Celaya:

H. B. No. 1105, A bill to be entitled "An Act providing for the construction of a State office building or buildings and for the acquisition of necessary sites therefor; providing for the issuance of bonds of the State of Texas for such purpose; providing for the payment of such bonds and making the necessary appropriations therefor; providing for the investment of the Permanent School Fund in such bonds; declaring the Act to be severable; providing that the Act shall be and become effective upon the effective date of a Constitutional amendment proposed by House Joint Resolution No. 44 to add Section 49-A to Article 3 of the Constitution of Texas, and declaring an emergency."

Referred to the Committee on Appropriations.

Mr. Langdon asked unanimous consent, to introduce, at this time, and have placed on first reading, House Bill No. 1106.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Langdon and Mr. Thornton:

H. B. No. 1106, A bill to be entitled "An Act to amend Chapter 196, Acts of the Forty-third Legislature, 1933, by adding a new Section thereto to be designated as Section 4b and providing for the collection of an additional tuition fee of not more than \$100.00 per semester or summer session from each student registered in the Medical Branch of the University of Texas, and providing for the fixing of such fee by the Board of Regents of said institution, and declaring an emergency."

Referred to the Committee on Appropriations.

Mr. Kinard asked unanimous consent, to introduce, at this time, and

have placed on first reading, House Bills Nos. 1107 and 1108.

There was no objection.

The Speaker then laid the bills before the House, they were read first time, and referred to the appropriate committees, as follows:

By Mr. Kinard:

H. B. No. 1107, A bill to be entitled "An Act validating, confirming, approving and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities or towns at an election, or elections held during the year 1938; providing this Act shall only apply to cities and towns acting under a home rule charter and which city or town did not at the time of the holding of said election, or elections, own any of the following utilities from which it could derive revenue: water system, sanitary sewer system, electric light system, or natural gas distribution system; repealing Senate Bill No. 438, Acts of the Regular Session of the Forty-sixth Legislature; and provided this Act shall not apply to any such bond the validity of which has been contested or attacked in any pending suit or litigation, and declaring an emergency."

Referred to the Committee on Municipal and Private Corporations.

By Mr. Kinard:

H. B. No. 1108, A bill to be entitled "An Act providing that taxes levied by other entities under and by virtue of Article 3, Section 52, of the Constitution shall never be reckoned in determining the power of any city or town to levy taxes; providing that in the event of conflict between this Act and any provisions of a city charter or of a special law constituting a charter of a city the provisions of this Act shall prevail, and declaring an emergency."

Referred to the Committee on Municipal and Private Corporations.

Mr. Reader of Bexar asked unanimous consent, to introduce, at this time, and have placed on first reading, House Bill No. 1109.

There was no objection.

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. Reader of Bexar, Mr. Leyendecker, Mr. Cauthorn and Mr. Felty:

H. B. No. 1109, A bill to be entitled "An Act amending House Bill No. 884 of the Regular Session of the Forty-sixth Legislature relating to the taking of collared peccary or javelina or their hides, and declaring an emergency."

Referred to the Committee on Game and Fisheries.

BILLS ORDERED NOT PRINTED

(By unanimous consent)

On motion of Mr. Alsup, House Bill No. 1097 was ordered not printed.

On motion of Mr. Boethel, House Bill No. 1104 was ordered not printed.

HOUSE BILL NO. 1097 ON SECOND READING

Mr. Alsup moved that all necessary House Rules, and the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 1097 be placed on its second reading and passage to engrossment, and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—119

Allen	Cornett
Allison	Corry
Alsup	Daniel
Bailey	Davis of Upshur
Baker	Derden
of Fort Bend	Dickison
Baker of Grayson	Dickson
Bell	Donaghey
Blankenship	Dwyer
Boethel	Faulkner
Bond	Ferguson
Boyd	Fielden
Boyer	Fuchs
Bradbury	Galbreath
Bradford	Gilmer
Bray	Goodman
Bridgers	Gordon, Mrs.
Broadfoot	Hale
Brown of Cherokee	Hamilton
Bundy	Hardeman
Burkett	Harp
Cauthorn	Harrell of Bastrop
Chambers	Harrell of Lamar
Clark	Harris
Cleveland	Heflin
Cockrell	Holland
Coleman	Howington
Colquitt	Hull
Colson, Mrs.	Hunt

Isaacks	Pope
Johnson of Tarrant	Reader of Bexar
Keith	Reader of Erath
Kennedy	Reaves
Kern	Reed
Kerr	Rhodes
Kersey	Roberts
Kinard	Robinson
King	Russell
Langdon	Segrist
Lehman	Skiles
Leonard	Smith of Frio
Leyendecker	Smith of Hopkins
Little	Smith
Lock	of Matagorda
Loggins	Spencer
London	Stinson
Mays	Tarwater
McAlister	Taylor
McDonald	Tennant
McFarland	Thornberry
McMurry	Thornton
Mohrmann	Turner
Monkhouse	Vint
Montgomery	Weldon
Morris	Wells
Newell	White
Oliver	Wilson
Pace	Wood
Petsch	Worley
Pevehouse	Wright
Piner	

Nays—1

Dowell

Present—Not Voting

Brown
of Nacogdoches

Absent

Anderson	McNamara
Burney	Nicholson
Celaya	Schuenemann
Crossley	Shell
Davis of Jasper	Stoll
Dean	Talbert
Felty	Vale
Hardin	Voigt
Hartzog	Waggoner
Howard	Westbrook
Johnson of Ellis	Winfree
McDaniel	

Absent—Excused

Hankamer	Riviere
Harper	Roach
Ragsdale	

The Speaker then laid before the House, on its second reading and passage to engrossment,

H. B. No. 1097, A bill to be entitled "An Act making an appropriation of the sum of Fifty Thousand (\$50,000.00) Dollars, or so much thereof

as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses and per diem of Members, and declaring an emergency."

The bill was read second time.

Mr. Alsup offered the following amendment to the bill:

Amend House Bill No. 1097, by striking out the figures "\$50,000.00" wherever they may appear, and insert in lieu thereof, the figures "\$75,000.00".

The amendment was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

House Bill No. 1097 was then passed to engrossment.

HOUSE BILL NO. 1097 ON THIRD READING

The Speaker then laid House Bill No. 1097 before the House on third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—119

Allen	Cornett
Allison	Corry
Alsup	Daniel
Bailey	Davis of Upshur
Baker	Derden
of Fort Bend	Dickison
Baker of Grayson	Dickson
Bell	Donaghey
Blankenship	Dwyer
Boethel	Faulkner
Bond	Ferguson
Boyd	Fielden
Boyer	Fuchs
Bradbury	Galbreath
Bradford	Gilmer
Bray	Goodman
Bridgers	Gordon, Mrs.
Broadfoot	Hale
Brown of Cherokee	Hamilton
Bundy	Hardeman
Burkett	Harp
Cauthorn	Harrell of Bastrop
Chambers	Harrell of Lamar
Clark	Harris
Cleveland	Heflin
Cockrell	Holland
Coleman	Howington
Colquitt	Hull
Colson, Mrs.	Hunt

Isaacks	Pope
Johnson of Tarrant	Reader of Bexar
Keith	Reader of Erath
Kennedy	Reaves
Kern	Reed
Kerr	Rhodes
Kersey	Roberts
Kinard	Robinson
King	Russell
Langdon	Segrist
Lehman	Skiles
Leonard	Smith of Frio
Leyendecker	Smith of Hopkins
Little	Smith
Lock	of Matagorda
Loggins	Spencer
London	Stinson
Mays	Tarwater
McAlister	Taylor
McDonald	Tennant
McFarland	Thornberry
McMurry	Thornton
Mohrmann	Turner
Monkhouse	Vint
Montgomery	Weldon
Morris	Wells
Newell	White
Oliver	Wilson
Pace	Wood
Petsch	Worley
Pevehouse	Wright
Piner	

Nays—1

Dowell

Present—Not Voting

Brown
of Nacogdoches

Absent

Anderson	McNamara
Burney	Nicholson
Celaya	Schuenemann
Crossley	Shell
Davis of Jasper	Stoll
Dean	Talbert
Felty	Vale
Hardin	Voigt
Hartzog	Waggoner
Howard	Westbrook
Johnson of Ellis	Winfree
McDaniel	

Absent—Excused

Hankamer	Riviere
Harper	Roach
Ragsdale	

HOUSE BILL NO. 340 ON PASSAGE TO ENGROSSMENT

The House resumed consideration of pending business, same being House Bill No. 340, Providing for payment

of old age assistance benefits, etc., on its passage to engrossment.

The bill having heretofore been read second time, with amendment offered by Mr. Keith, pending.

Mr. Morris offered the following amendment to the amendment:

Amend mimeographed substitute to House Bill No. 340, by adding a new Subsection to Section 2 thereof, as follows:

"(15) It is hereby specifically provided that in the event the graduated rates of taxation on oil as provided in Subsections (1), (2), (3) and (4) of this Section are for any reason held invalid, then there is levied an occupation tax on oil produced within this State of three and one-half (3½c) cents per barrel of forty-two (42) standard gallons. Provided however, that the occupation tax levied in this Subsection on such oil shall be three and one-half per cent (3½%) of the market value of said oil whenever the market value thereof is in excess of One (\$1.00) Dollar per barrel of forty-two (42) standard gallons. It is hereby declared to be the intention of the Legislature that this Subsection (15) shall be of no force and effect whatsoever unless the graduated rates of taxation as provided in Subsections (1), (2), (3) and (4) of this Section are held invalid."

MORRIS,
KEITH.

The amendment was adopted.

Mr. Colquitt raised the following points of order:

I raise the point of order against House Bill No. 340, in that it violates Section 35 of Article 3 of the Constitution of Texas which prohibits any bill other than the general appropriation bill from containing more than one subject, and is also in violation of Section 2 of Rule 19 of the House Manual. House Bill No. 340 contains thirteen (13) separate subjects.

I raise the further point of order, that the caption of the bill does not conform to the body of the bill.

I raise the further point of order, that the bill is in violation of Section 3 of Rule 19 and of Section 36 of Article 3 of the Constitution in that House Bill No. 340 seeks to amend certain statutes by referring to their titles, and the Constitution and the Rules of the House provides that no

law shall be revived or amended by referring to its title but in such cases the Act revived or the Section or Sections shall be re-enacted and published at length.

I raise the further point of order, that Article 1 of committee amendment No. 1 of House Bill No. 340 is in direct violation of Section 3 of Rule 19 of the Manual and of Section 36, Article 3 of the Constitution.

I raise the further point of order, that Section 1 of Article 1 of committee amendment No. 1 seeks to amend three (3) Sections of Chapter 241 of the Acts of the Regular Session of the Forty-fourth Legislature, whereas the caption provides for the amendment of one Section only.

I raise the further point of order, that Article 2 of committee amendment No. 1 of House Bill No. 340 is in direct violation of Section 3 of Rule 19, same being Section 36 of Article 3 of the Constitution.

I raise the further point of order, to Article 3 of committee amendment No. 1 of House Bill No. 340 that it is in direct violation of Section 3, Rule 19, same being Section 36 of Article 3 of the Constitution.

I raise the further point of order, to Article 4 of committee amendment No. 1 of House Bill No. 340 that it is in direct violation of Section 3, Rule 19, same being Section 36 of Article 3 of the Constitution.

I raise the further point of order, that Article 5 of committee amendment No. 1 of House Bill No. 340 is in direct violation of Section 3 of Rule 19 of the House Manual, same being Section 36 of Article 3 of the Constitution.

I raise the further point of order, of Article 6 of the committee amendment No. 1 of House Bill No. 340 is in direct violation of Section 3 of Rule 19, same being Section 36 of Article 3 of the Constitution of Texas.

I raise the further point of order, that Article 7 is in direct violation of Section 3 of Rule 19 of the House Manual, same being Section 36 of Article 3 of the Constitution.

I raise the further point of order, that Article 8 of committee amendment No. 1 of House Bill No. 340 is in direct violation of Section 3 of Rule 19, same being Section 36 of Article 3 of the Constitution of Texas.

If any or all of these points of order are overruled, I make the motion that the bill be re-referred to the Committee on Revenue and Taxation in order that the bill may be properly amended.

COLQUITT.

The Speaker overruled the points of order.

Mr. Colquitt moved to recommit House Bill No. 340 to the Committee on Revenue and Taxation.

Mr. Keith moved to table the motion to recommit.

The motion to table prevailed.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 17, line 2, after the word "than" by adding the following: "two thousand, five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to two and one-fourth per cent (2¼%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than".

KEITH,
MORRIS.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 21, lines 12-14, by striking out all of Subsection (a) of Article XI and substituting therefor the following:

"(a) Upon all jewelry retailing for more than Five (\$5.00) Dollars, two (2%) per cent of the retail selling price at the point of delivery. The term 'jewelry', as used herein, shall mean and include all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments or silver-plated ware, or frames or mountings for spectacles or eyeglasses); watches; clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars. No tax shall be im-

posed under this Subsection on any article used for religious purposes."

KEITH,
MORRIS,
DERDEN.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 21, lines 15-16, by striking out all of Subsection (b) of Article XI, and substituting therefor, the following:

"(b) Upon all articles made of fur on the hide or pelt, or of which any such fur is the component material of chief value, two (2%) per cent of the retail selling price thereof at the point of delivery."

KEITH,
MORRIS.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 21, lines 20-23, by striking out all of Subsection (d) of Article XI, and substituting therefor, the following:

"(d) Upon all tennis rackets, tennis racket frames and strings, nets, racket covers and presses, canoe paddles, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and uniforms, basketball goals and uniforms, golf bags and clubs, balls of all kinds, including baseballs, footballs, tennis, golf, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games (except playing cards and children's toys and games) and all similar articles commonly or commercially known as sporting goods, one cent (1c) on each fifty cents (50c) or fractional part thereof of the retail selling price at the point of delivery."

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend committee amendment No. 1, Article XI, by adding to Subsection (h) thereof, the following:

"The term 'electrical appliances' as used in this Article is hereby defined to mean all household appliances, the use of which is dependent upon the

use of electricity or electric energy, and radios, fans, lighting equipment, and refrigerators wherever used; provided that refrigerators used strictly for commercial purposes and lighting equipment in hospital operating rooms are hereby exempted from the tax levied in this Article."

KEITH,
DERDEN.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 21, lines 34-35, by striking out all of Subsection (j) of Article XI and renumbering the remaining Subsections accordingly.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 22, lines 12-14, by striking out Subsection (o) of Article XI and substituting therefor, the following:

"(o) Upon all cosmetics retailing at fifty (50c) cents per item, or more, one (1c) cent for each fifty (50c) cents or fraction of the retail selling price. The term 'cosmetics,' as used herein, shall mean and include any preparation manufactured, sold or distributed for use as a facial or body powder, lotion or cream; rouge, lipstick, nail polish remover, nail polish or covering, cuticle cream or oil; hair tonics, pomades, ointments, oils, dyes, rinses or shampoos; eyebrow and eyelash pencils, and eyebrow, eyelash or eyelid coloring; bath salts; and every variety of perfumes and toilet waters, astringents, mouthwashes, toothpastes and powders, dipilatories, deodorants; and any and all other preparations, whether or not enumerated in this Subsection and whether or not similar to those so enumerated, which are advertised, sold or used for the purpose of softening, cleansing or beautifying the skin, hair, teeth or nails. Provided, however, that neither prescriptions prescribed by a physician for a specific individual and filled by a licensed pharmacist nor soaps retailing at thirty (30c) cents a pound or less shall be deemed to be cosmetics for the purposes of this Act."

KEITH,
DERDEN,
MORRIS.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 22, line 24, by adding the following:

"The word 'candy', as used in this Article, shall mean and include all those commodities commercially so designated and also such additional confections as are composed wholly or in part of candy. The term shall not mean or include cakes, cookies, or other sweetened breads which may be filled, coated, or iced with confections similar to candy."

KEITH,
MORRIS,
DERDEN.

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend mimeographed substitute for House Bill No. 340, page 22, line 33, by striking out the period at the end of such line, inserting a semi-colon, and adding the following:

"provided, however, that not more than five (5%) per cent of the revenue derived from any Subsection of this Article shall be expended by such Comptroller for the collection thereof. The authority hereby granted to said Comptroller to employ such clerks and other employees as may be necessary to effectuate the purposes of this Article shall expire on August 31, 1941, and thereafter the number and compensation of all such employees shall be determined and fixed by the Legislature."

The amendment was adopted.

Mr. Keith offered the following amendment to the amendment:

Amend the mimeographed substitute for House Bill No. 340, page 30, line 24, by striking out the period and inserting a semi-colon, and adding the following words:

"Provided, however, nothing herein shall be construed to alter, modify or repeal Article 5764, Revised Civil Statutes of the State of Texas, 1925 or Acts 1937, Forty-fifth Legislature, Regular Session, Chapter 86, page 161."

The amendment was adopted.

Mr. Burkett offered the following amendment to the amendment:

Amend substitute for House Bill No. 340, by striking out the word

"well" in lines 27 and 34, page 2, lines 7 and 15, page 3, and inserting in lieu thereof the word "lease;" and by striking out the word "averaged," in lines 28 and 35, page 2, lines 8 and 16, page 3, and inserting in lieu thereof the words "per well average."

BURKETT,
CLARK,
CROSSLEY.

The amendment was adopted.

Mr. Bundy offered the following amendment to the amendment:

Amend House Committee substitute for House Bill No. 340, on page 2, Section 2, and Subsection 1 thereof, by striking out in line 2 the words and figures "four cents (4c)," and wherever else such words and figures appear in said Section and substitute therefor the words and figures "three and one-half cents (3½c)."

Also amend said bill by striking out in line 5 of Subsection 2 the words and figures "three and one-half cents (3½c)," and wherever else they may appear in said Section and substitute therefor the words and figures "three cents (3c)."

Also amend Subsection 3 on said page 2, in line 5, by striking out the words and figures "three cents (3c)," and wherever else they may appear in Subsection 3 and substitute therefor the words and figures "two and three-fourths cents (2¾c)."

Also amend said bill on page 2 by striking out all of Subsection 4.

Mr. Mays offered the following substitute for the amendment by Mr. Bundy:

Amend substitute to House Bill No. 340, by changing the figures "4c," or "4%" wherever they appear in Section 2 (1) to hereafter read "5c," or "5%." And in Section 2 (2) change the figures "3½c" or "3½%" to "4½c," or 4½%, and in Section 2 (3) change the figures "3c," or "3%", to read "4c," or "4½%." And in Section 2 (4) change the figures "2¾c," or "2¾%", to read "3¼c" or "3¼%."

On motion of Mr. Keith, the substitute amendment by Mr. Mays was tabled.

On motion of Mr. Keith, the amendment by Mr. Bundy was tabled.

Mr. Nicholson offered the following amendment to the amendment:

Amend mimeographed substitute for

House Bill No. 340, Section 2, paragraph 1, as follows:

"Strike out "four cents (4c)" from lines 28 and 29, and insert in lieu thereof, "three and three-quarter cents (3¾c) and strike out "four per cent (4%)" in line 30, and insert in lieu thereof "three and three-quarters per cent (3¾%)".

Mr. Morris moved to table the amendment by Mr. Nicholson.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—81

Allison	Hunt
Alsup	Isaacks
Bailey	Johnson of Ellis
Baker	Keith
of Fort Bend	Kern
Baker of Grayson	Kerr
Bell	Kersey
Blankenship	King
Boyd	Langdon
Bridgers	Lehman
Broadfoot	Leyendecker
Brown of Cherokee	Lock
Brown	London
of Nacogdoches	Mays
Burney	McDaniel
Cauthorn	McDonald
Cleveland	McNamara
Cockrell	Mohrmann
Coleman	Morris
Colson, Mrs.	Oliver
Cornett	Piner
Davis of Jasper	Reader of Erath
Davis of Upshur	Reaves
Derden	Robinson
Dickson	Russell
Dowell	Segrist
Faulkner	Skiles
Felty	Smith of Frio
Ferguson	Smith of Hopkins
Fuchs	Spencer
Galbreath	Stinson
Gordon, Mrs.	Thornberry
Hale	Turner
Hamilton	Vint
Hardeman	Waggoner
Hardin	Weldon
Harp	Westbrook
Harrell of Bastrop	White
Harrell of Lamar	Wilson
Harris	Worley
Holland	Wright
Howington	

Nays—49

Anderson	Bond
Boethel	Boyer

Nays—39	
Allen	Kennedy
Allison	Kern
Bailey	Kerr
Baker of Grayson	Lehman
Bradbury	Leyendecker
Broadfoot	Lock
Burney	McDaniel
Chambers	Mohrmann
Coleman	Newell
Corry	Oliver
Davis of Jasper	Reader of Erath
Davis of Upshur	Segrist
Faulkner	Skiles
Fielden	Spencer
Hamilton	Stoll
Harrell of Bastrop	Turner
Harrell of Lamar	Weldon
Holland	Westbrook
Howington	White
Isaacks	
Absent	
Bridgers	Derden
Celaya	Dowell

Hardeman	Schuenemann
Hartzog	Shell
Leonard	Smith of Hopkins
Mays	Voigt
McFarland	Wood
Monkhouse	Wright

Absent—Excused

Hankamer	Riviere
Ragsdale	Roach

Mr. Smith of Matagorda offered the following amendment to the amendment:

Amend amendment to House Bill No. 340, by striking out all of Article 4, page 5, and inserting in lieu thereof the following:

Article IV

"Section 1. That Section 40A of Article 7047, Revised Civil Statutes of Texas, 1925, as amended by Acts 1931, Forty-second Legislature, Regular Session, page 355, Chapter 212, Section 1, as amended by Acts, 1936, Forty-fourth Legislature, Third Called Session, page 2040, Chapter 495, Article 4, Section 6, be, and the same is hereby amended so as to read, as follows:

"40A. Sulphur producers: Each person, firm, association or corporation who owns, controls, manages, leases or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller in this State, or if such person be other than individual, sworn to by its president, secretary or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar and Twenty-three Cents (\$1.23) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the total number

of tons produced within the last quarter, dividing the same by the number of days such person was engaged in the business during said preceding quarter and multiplying the quotient by ninety, and multiplying the product by One Dollar and Twenty-three Cents (\$1.23). Said tax shall be in lieu of the tax imposed by House Bill No. 251, Chapter 212, page 355, Section 1, Acts of the Regular Session of the Forty-second Legislature, as amended by Acts, 1936, Forty-fourth Legislature, Third Called Session, page 2040, Chapter 495, Article 4, Section 6, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act, except that said funds shall be allocated as hereinafter provided."

(Pending consideration of the amendment, Mr. Thornton occupied the Chair temporarily.)

(Speaker in the Chair.)

Mr. Derden moved to table the amendment.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—72

Allen	Fuchs
Allison	Gilmer
Bailey	Hale
Baker of Grayson	Hamilton
Bond	Harp
Boyd	Harrell of Bastrop
Bradbury	Harrell of Lamar
Bridgers	Holland
Brown of Cherokee	Howington
Brown	Hunt
of Nacogdoches	Isaacks
Burkett	Johnson of Ellis
Burney	Keith
Chambers	Kennedy
Cleveland	Kerr
Cockrell	Langdon
Coleman	Lehman
Colson, Mrs.	Lock
Cornett	London
Daniel	Mays
Davis of Jasper	Mohrmann
Davis of Upshur	Morris
Derden	Newell
Dickson	Oliver
Dowell	Pace
Faulkner	Pevehouse
Felty	Reader of Erath
Ferguson	Reaves

Russell	Thornberry
Skiles	Turner
Smith of Frio	Vint
Smith of Hopkins	Weldon
Spencer	Wells
Stoll	Westbrook
Talbert	White
Tarwater	Worley
Tennant	

Nays—53

Alsup	King
Anderson	Leonard
Baker	Loggins
of Fort Bend	McAlister
Bell	McDaniel
Blankenship	McDonald
Boethel	McMurry
Boyer	McNamara
Bradford	Monkhouse
Bray	Montgomery
Bundy	Nicholson
Cauthorn	Petsch
Clark	Reader of Bexar
Colquitt	Reed
Corry	Rhodes
Dean	Roberts
Dickison	Robinson
Donaghey	Smith
Dwyer	of Matagorda
Fielden	Stinson
Galbreath	Taylor
Goodman	Thornton
Gordon, Mrs.	Vale
Hardin	Voigt
Harris	Wilson
Heflin	Winfree
Kersey	Wood
Kinard	

Absent

Broadfoot	Little
Celaya	McFarland
Crossley	Piner
Hardeman	Pope
Hartzog	Schuenemann
Howard	Segrist
Johnson of Tarrant	Shell
Kern	Waggoner
Leyendecker	Wright

Absent—Excused

Hankamer	Ragsdale
Harper	Riviere
Hull	Roach

Mr. Boyer offered the following amendment to the amendment:

Amend substitute for House Bill No. 340, by striking out all of lines 21 to 26 inclusive, page 6 of the mimeographed substitute.

The amendment was adopted.

Mr. Gilmer offered the following amendment to the amendment:

Amend substitute for House Bill No. 340, Article 9, Section 1, page 19 of the mimeographed copy, by changing the period, line 12, to a semicolon, and adding the following:

"The tax on telephone service in this Article shall not be levied or collected on sales to the State of Texas, the Federal Government, and the subdivisions and the agencies of each, nor on sales to users of telephone service furnished through coin boxes where the coins are deposited by the user in the coin box."

The amendment was adopted.

Mr. Hardin offered the following amendment to the amendment:

Amend substitute to House Bill No. 340, by striking out all Sections and substituting in lieu thereof, the following:

"Section 1. The following words, terms and phrases as used in this Article are hereby defined as follows:

(a) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation, trustee, agency and receiver and every other legal entity, natural or artificial.

(b) "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

(c) The term "tax year" shall mean either the calendar year of the taxpayers' fiscal year when permission is obtained from the Comptroller to use the same as the tax period in lieu of the calendar year.

(d) The term "cash gross receipts" means the total amount of money received in the regular course of business for tangible personal property sold by any person engaged in the retail business or the wholesale business.

(e) The term "business" when used in this Act shall include all activities or acts engaged in or caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect.

(f) The term "retail sale" means the sale or transfer of tangible personal property for a valuable consideration, when such transfer is made by one in the ordinary course of his business and the sale is made for consumption or use, or for any pur-

pose other than for resale, or for use in processing, manufacturing or industrial enterprises. The term "sale at retail" or "retail sale" shall not include the isolated or occasional sale of tangible personal property by a person not engaging in the retail business.

(g) "Retail business" means engaging in the business of making retail sales.

(h) The term "wholesale" shall mean the sale of tangible personal property to persons for the purpose of resale, and for the purpose of being used or consumed by manufacturers, processors and industries.

Section 2. Beginning September 1, 1939, all persons engaged in the retail business in this State shall pay a tax equal to one per cent (1%) of the total cash gross receipts of such business, and all persons engaged in the wholesale business shall pay a tax equivalent to one-fourth of one per cent ($\frac{1}{4}\%$) of the total cash gross receipts of such business, and all persons engaged in the business of lending money or credit shall pay a tax equal to one-tenth of one per cent ($\frac{1}{10}\%$) on their gross income. All such taxes shall be paid by the merchant or the lender of money or credit and shall not be passed on to the buyer or borrower. Provided, however, that in every case the taxpayer shall be exempt from such taxes on Twenty-five Thousand (\$25,000.00) Dollars of his cash gross receipts or gross income during any one tax year, and such exemption may be allowed monthly under such regulations as the State Comptroller shall prescribe.

Section 3. No tax shall be levied upon the cash gross receipts derived from the following sales:

Goods, wares and merchandise sold to the government of the United States and its agencies; goods, wares and merchandise sold to the State of Texas and its agencies and to the various counties, districts and municipalities of this State and their agencies; sales at retail in interstate and foreign commerce, only to the extent that the same are free from taxation under the Constitution of the United States of America; newspapers and magazines; the first sale by the producer of all horticultural, live stock, poultry and dairy products; sale

of any commodity or service on which the seller now pays an occupation tax measured by gross receipts equivalent to one per cent (1%) or more of the sale price.

The taxpayer shall report the gross amounts received from each class of sales described in this Section, but shall not be required to pay a tax thereon under this Act.

Section 4. The taxes levied hereunder shall be due and payable in monthly installments on or before the 15th day of the month next succeeding the month in which the tax accrues. The taxpayer shall, on or before the 15th day of each month, make out a return showing the amount of tax for which he is liable for the preceding month and shall mail such return, together with a remittance for the amount of tax due him, in the form hereinafter provided, to the office of the Comptroller. Such monthly return shall be signed by the taxpayer or his duly authorized agent and shall be verified by oath. Any person taxable under this Act who has made cash and credit or installment sales shall report all sales made by him and shall monthly pay the tax on cash sales, but may pay the tax accruing on credit or installment sales in the month next succeeding the date when such credit accounts are paid.

Section 5. Persons liable for taxes under this Act shall report all sales at retail, whether such sales are taxable or not, and in computing the tax due and owing by them they shall be allowed to deduct from their total gross receipts the proceeds of sales of commodities exempted from taxation by this Act as a credit and shall pay the taxes prescribed on the balance of such total gross receipts remaining after the deduction of the gross receipts of untaxed sales. Those engaged in the business of making sales at wholesale and retail shall keep such records as will enable them to report the cash gross receipts from each class of sales. In the event that sales at wholesale and sales at retail are not so segregated, the tax shall be paid at the rate herein levied on retail sales.

Section 6. Whenever the total tax for which any person is liable under this Act does not exceed the sum of Ten (\$10.00) Dollars for any month he shall so inform the Comptroller

and in lieu of the monthly return and remittance required herein he may make a quarterly return and remittance which shall be made on or before the 15th day of the month succeeding the end of the quarter for which the tax is due. When the total tax for which any person is liable under this Act does not exceed the sum of Ten (\$10.00) Dollars in each quarter year, he shall inform the Comptroller of such fact but shall not be required to make either a monthly or quarterly return and remittance, but in lieu thereof shall make an annual return and remittance, under such rules and regulations as the Comptroller may prescribe, such annual return and remittance to be made on or before the 30th day of the tax year for which the tax is due.

Section 7. The Comptroller shall prescribe forms for the making of the monthly, quarterly and annual returns and remittances required by this Act. Such return shall be verified by the oath of the taxpayer, if made by an individual, or by the oath of the president, vice-president, secretary or treasurer if made on behalf of a corporation. If made on behalf of a partnership, trust estate or any group or combination acting as a unit, or by any other entity, the same shall be made by any individual delegated by such taxpayer. If for any reason it is not practicable for the individual taxpayer to make the oath the same may be made by any duly authorized agent.

Section 8. As soon as practicable after the return required by this Act is filed, the Comptroller shall examine it. If it then appears that the correct amount of tax is greater or less than the amount shown in the return, the tax shall be recomputed. If the amount paid exceeds that which should have been paid as recomputed, the excess so paid shall be immediately returned to the taxpayer in accordance with the provisions of this Act. If the amount paid is less than the amount which should have been paid, the difference, to the extent not covered by any credits under this Act, together with the interest thereon at the rate of one-half of one per cent ($\frac{1}{2}\%$) per month from the time the tax was due, shall be paid upon notice and demand by the Comptroller. If any part of the deficit, due to the neglect or intentional disregard of authorized rules

and regulations with knowledge thereof but without intent to defraud, there shall be added as damages ten per cent (10%) of the total amount of the deficit, and the tax and interest in such cases shall be collected at the rate of ten per cent (10%) per annum on the amount of such deficit from the time the same was due, which interest and damages shall become due and payable on notice and demand by the Comptroller. If it be found that any part of the deficit occurred by reason of fraud with intent to evade the tax then there shall be added as damages not more than one hundred per cent (100%) of the total amount of the deficit and in such cases the whole amount of the tax unpaid, including charges so added, shall become due and payable on notice and demand by the Comptroller and an additional ten per cent (10%) per annum on the tax shall be added from the date such due and unpaid.

Section 9. It shall be the duty of every person engaging or continuing in this State in any business subject to the provisions of this Act to keep and preserve suitable records of the gross receipts from the sales of such business, and such other books of account and records as may be necessary to determine the amount of tax for which he is liable under the provisions of this Act. It shall be the duty of every such person to keep and preserve for a period of two years all invoices of goods and merchandise purchased for resale and all such books, invoices and other records shall be open for examination at all times to the Comptroller or his duly authorized agents.

Section 10. Every person selling at wholesale any goods, wares or merchandise, retail sales of which are taxed by this Act shall keep and preserve complete records of such sales. It shall be the duty of every such person to keep and reserve such records for a period of two years and available for examination and inspection.

Section 11. If no return is made when due by any taxpayer required to make returns as provided herein, the Comptroller shall give written notice by registered mail to such taxpayer to make such return within thirty days from the date of such notice, and if such taxpayer shall fail or refuse

to make such returns as he may be required to make in such notice, then such returns shall be made by the Comptroller from such information available, and such returns shall be prima facie correct for the purposes of this Act and the amount of tax shown due thereby shall be a lien against all of the property of the taxpayer subject to the execution until discharged by payment. If payment be not made within thirty days after demand therefor by the Comptroller, there shall be added not more than one hundred per cent (100%) thereof as damages, together with interest at the rate of one-half of one per cent ($\frac{1}{2}\%$) per month on the tax from the time such tax was due. However, if such tax be paid within thirty days after notice by the Comptroller, there shall be added only ten per cent (10%) as damages, together with interest at the rate of one-half per cent ($\frac{1}{2}\%$) per month from the time such tax was due until paid. It shall be within the discretion of the Comptroller to remit any penalties for the first offense upon payment of the tax due.

Section 12. The tax imposed by this Act shall be a lien upon the property of any person subject to the provisions hereof, who shall sell out his business or stock of goods, or shall quit business, and such person shall be required to make out a return upon such form as may be prescribed by the Comptroller within ten days after the date of the sale of his business or stock of goods, or the date of his cessation of business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of taxes due and unpaid until such time as the former owner shall produce a receipt from the Comptroller showing that the taxes have been paid or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes shall be due and unpaid after thirty days, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

Section 13. Any person improperly charged with any tax and required to pay the same may recover the amount paid, together with legal interest in a suit against the Comptroller in any

court of competent jurisdiction in Travis County and permission is hereby granted any such taxpayer to file such a suit. It shall not be necessary for the taxpayer to protest the payment of the tax or to make demand for a refund thereof in order to maintain such suit. In any suit to recover taxes paid or to collect taxes the court shall adjudge cost to such extent and in such manner as may be deemed equitable. Either party to such suit shall have the right of appeal in accordance with the laws governing appeals in other civil cases. In the event a final judgment is rendered in favor of the taxpayer in a suit to recover illegal taxes, then it shall be the duty of the State Treasurer upon receipt of a certified copy of such final judgment, to pay such judgment, interest and costs.

Section 14. No injunction shall be awarded by any court or judge to restrain in the collection of the taxes imposed by this Act or to restrain the enforcement of the same, unless the application be filed in the District Court of Travis County accompanied by a bond, approved by the Judge in double the amount of the tax.

Section 15. It shall be the duty of the Attorney General to represent the Comptroller and other officers charged with the enforcement of this tax and the execution of the provisions of this entire Act in any litigation arising hereunder.

Section 16. Any tax due and unpaid shall constitute a debt to the State of Texas and may be collected by a suit in any court of competent jurisdiction in Travis County, Texas, or in the county of the taxpayer's residence, at the option of the Comptroller, which remedy shall be in addition to all other existing remedies. Any such unpaid tax shall constitute a lien upon all of the property of the taxpayer subject to execution. All unpaid taxes shall bear interest at the rate of one-half of one per cent ($\frac{1}{2}\%$) per month if paid not later than thirty days after due date. Taxes past due more than thirty days shall bear interest at the rate of ten per cent (10%) per annum. The lien herein provided for taxes shall also secure all penalties and interest due by any taxpayer.

Sec. 17. Whenever any person shall fail or refuse to make the return and

pay the taxes as herein provided it shall be the duty of the Comptroller to certify such fact to the Attorney General who shall bring suit in a district court of Travis County, Texas, for an injunction to restrain the person delinquent from further engaging in business until he shall have paid such taxes as he may be found to owe. The assessment of taxes herein made, and the returns thereof herein required, shall be for the calendar year beginning January first and ending December 31st. However, if any taxpayer in transacting his business keeps the books reflecting the same on a basis other than the calendar year, he may with the consent of the Comptroller, make his annual returns and pay taxes for the year covering his accounting period as shown by the method of keeping the books of his business.

Sec. 18. No city or other political subdivision of the State, by virtue of its taxing power, police power, or otherwise, shall impose an occupation tax or charge of any sort, whether measured by gross receipts or otherwise, for the privilege of doing business, upon any person engaged in a business in which the cash gross receipts from sales are taxed under this Act, provided that this provision shall not limit the right of any city to collect any special taxes which are now or may hereafter be provided for in a franchise, or which are payable under any agreement now in existence or hereafter made between a city and a holder of a franchise.

Sec. 19. All remittances of taxes imposed by this Act shall be made to the Comptroller by bank draft, check, cashier's check, money order or in cash. The Comptroller shall issue his receipt for all remittances when requested. However, no remittance other than cash shall be a final discharge of liability for the tax herein assessed and levied unless and until it has actually been paid in cash to the Comptroller or State Treasurer.

Sec. 20. At the end of each month the State Auditor shall carefully check the books and records of the Comptroller relating to the taxes herein levied and collected, and shall verify the amounts paid or to be paid into the State Treasury.

Sec. 21. The Comptroller shall keep full and accurate record of all money received by him and how disbursed.

He shall preserve for a period of three years all returns filed with him.

Sec. 22. Neither the Comptroller nor any of his office assistants or agents shall divulge the gross income or gross proceeds of any person or the amount of tax paid by any person as shown by the returns filed under this Act, except in some judicial proceeding to which the State is a party. The Comptroller, however, may impart such information as may be necessary to the Governor or to the Attorney General or to any other office of the State charged with the enforcement of the provisions of this Act.

Sec. 23. The Secretary of State shall withhold the issuance of any certificate of dissolution or withdrawal of any corporation until a receipt of a notice from the Comptroller to the effect that all taxes levied under this Act have been paid, if any such corporation is a taxpayer under the terms of this Act, or until he shall be notified by the Comptroller that the applicant for such certificate is not subject to pay a tax hereunder.

Sec. 24. It shall be unlawful for any person to fail or refuse to make any return provided for in this Act, or to make any false or fraudulent return or false statement in any return with the intent to defraud the State, or to avoid the payment of the tax or any part thereof; and it shall be unlawful for any person to aid or abet another in any attempt to evade the payment of any tax.

Sec. 25. Any person violating any of the provisions of the foregoing Sections shall be guilty of a felony and upon conviction shall be punished by confinement in the penitentiary not less than one nor more than five years.

Sec. 26. It shall be the duty of the Comptroller to enforce and administer all of the provisions of this Act relating to tax returns and the ascertainment, assessment and collection of the taxes imposed hereunder, and it shall be the duty of the Attorney General and of every county and district attorney in this State to assist the Comptroller in the enforcement of this Act when called upon so to do.

Sec. 27. The Comptroller shall, from time to time, promulgate such rules and regulations not inconsistent with this Act for the making of returns and for the ascertainment, assessment and collection of the tax im-

posed hereunder as he may deem necessary; and upon request the Comptroller shall furnish any taxpayer with a copy of such rules and regulations. The Comptroller shall likewise cause forms to be printed for the making of returns and remittances and shall furnish the same to taxpayers upon request.

Sec. 28. The Comptroller shall appoint, as needed, such assistants, clerks and stenographers as may be required to administer the provisions of this Act. The such assistant or clerk shall execute a bond in the sum of Five Thousand (\$5,000) Dollars for the faithful performance of his duties. The salaries of such assistants, clerks and stenographers shall be paid out of the special fund hereinafter created. All such assistants, stenographers and clerks shall serve at the pleasure of the Comptroller.

Sec. 29. The Comptroller or his authorized representative may examine any books, papers, records or any other data belonging to or in the possession of any taxpayer, bearing upon any return made by such taxpayer, or for the purpose of making a return where none has been made, and may require the attendance of any person as a witness and may take his testimony with respect thereto, with power to administer oaths to such person or persons. If any person summoned as a witness shall fail to obey any summons to appear before the Comptroller or his authorized assistant, or shall refuse to testify or answer any material question or to produce any book, record, paper or other data when required to do so, such failure or refusal shall be reported to the Attorney General or to the county or district attorney of the county in which such person is summoned to testify, who shall thereupon apply to the Judge of the District Court of such county, upon proof by affidavit of the fact, for a rule or order returnable in not less than two nor more than five days directing such witness to show cause before the Judge who made the order, or any other district judge of said County, why he should not be punished for contempt. Upon the return of such order the judge before whom the matter shall come up for hearing shall examine under oath such witness or person and such person shall be given an opportunity to be heard. If the judge shall determine that such person has refused, without reasonable

cause or legal excuse to answer such summons, or to be examined or answer a legal and pertinent question, or to produce a book, record or paper or any other data which he has been ordered to bring or produce, he may forthwith punish the offender as for contempt of court. Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Comptroller and his representatives shall be paid their fees and mileage by the Comptroller out of the special fund hereinafter created.

Sec. 30. There is hereby created a special fund known as the "Gross Receipts Tax Enforcement Fund." One-tenth of one per cent (1/10th%) of all monies collected under the provisions of this Act, or so much thereof as may be necessary, shall be applied by the Comptroller to such Enforcement Fund and shall be used to carry out the enforcement of this Act. All assistants, clerks and stenographers hired in connection with the enforcement hereof shall be paid out of said fund and all expenses, witness fees and officers fees shall be paid out of said funds.

Sec. 31 (a) Each person who owns, controls, manages, leases or operates, any sulphur mine, or mines, well or shafts, or who produces sulphur by any method, system, or manner within this State shall pay a severance tax of thirty-three and one-third (33 1/3) cents per long ton, or fraction thereof, of all sulphur so produced within the State.

(b) A severance tax equivalent to three-fourths of one (1%) per cent of the market value of the total amount of gas produced and saved within this State is hereby levied.

(c) There is hereby levied a severance tax on all oil produced within this State of one (1%) per cent per barrel of forty-two (42) standard gallons, said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions; provided, however, that the severance tax herein levied on oil shall be one (1%) per cent of the market value thereof is in excess of One (\$1) Dollar per barrel of forty-two (42) standard gallons.

(d) Severance taxes herein imposed shall be paid to the Comptroller

of this State; said taxes shall be the liability of the producer and such taxes shall be borne ratably by all interested parties including royalty owners. The provisions of the existing law providing for severance taxes on oil, gas and sulphur with reference to paying such taxes, the records to be kept and reports to be made in regard thereto, and all other administrative provisions of said law, shall apply and be followed in the enforcement and collection of the severance taxes herein levied.

Sec. 32. The taxes herein levied are: in addition to all other taxes now imposed by law.

Sec. 33. All revenues received by the Comptroller under this Act shall be paid into the State Treasury on the first day of each month. The State Treasurer shall place one-fourth (1/4) of said revenues to the credit of the Available School Fund, and three fourths (3/4) shall be placed in a fund to be designated as the Social Security Fund, out of which the Legislature shall make appropriations, as follows: Such sums as are necessary to meet the obligations of the State in providing its share of the funds for Teachers Retirement, Destitute Children, and needy blind. The balance remaining in said Social Security Fund shall be used exclusively for the payment of Old Age Assistance.

Sec. 34. If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act.

Mr. Russell moved the previous question on the pending amendments, and the engrossment of House Bill No. 340, and the motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—71

Allen	Cauthorn
Alsup	Chambers
Bailey	Cleveland
Baker of Grayson	Cockrell
Blankenship	Coleman
Boyd	Cornett
Bradbury	Daniel
Bridgers	Davis of Jasper
Brown of Cherokee	Davis of Upshur
Burney	Dickson

Dowell	Morris
Ferguson	Oliver
Fielden	Pevehouse
Hale	Reader of Bexar
Hamilton	Reader of Erath
Hardin	Rhodes
Harp	Robinson
Harrell of Bastrop	Russell
Harrell of Lamar	Skiles
Howington	Smith of Frio
Hunt	Smith of Hopkins
Isaacks	Spencer
Johnson of Ellis	Stoll
Keith	Talbert
Kennedy	Tarwater
Kern	Thornberry
Kerr	Turner
King	Waggoner
Langdon	Weldon
Lehman	Wells
Lock	Westbrook
London	White
Mays	Wilson
McDonald	Worley
McNamara	Wright
Mohrmann	

Nays—65

Allison	Heflin
Anderson	Holland
Baker	Johnson of Tarrant
of Fort Bend	Kersey
Bell	Kinard
Boethel	Leonard
Bond	Leyendecker
Boyer	Little
Bradford	Loggins
Bray	McAlister
Broadfoot	McDaniel
Brown	McFarland
of Nacogdoches	McMurry
Bundy	Monkhouse
Burkett	Montgomery
Celaya	Newell
Clark	Nicholson
Colquitt	Pace
Colson, Mrs.	Petsch
Corry	Piner
Crossley	Reed
Dean	Roberts
Derden	Shell
Dickison	Smith
Donaghey	of Matagorda
Dwyer	Stinson
Faulkner	Taylor
Felty	Tennant
Galbreath	Thornton
Gilmer	Vale
Goodman	Vint
Gordon, Mrs.	Voigt
Hardeman	Winfree
Hartzog	Wood

Present—Not Voting

Reaves

Absent

Fuchs Pope
Harris Schuenemann
Howard Segrist

Absent—Excused

Hankamer Ragsdale
Harper Riviere
Hull Roach

Mr. Russell moved to reconsider the vote by which the previous question was ordered.

The motion to reconsider prevailed.

Question then recurring on the motion for the previous question, it was lost.

Mr. Derden moved to table the amendment by Mr. Hardin.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—118

Allison	Davis of Upshur
Alsup	Derden
Baker	Dickison
of Fort Bend	Dickson
Baker of Grayson	Dowell
Bell	Dwyer
Blankenship	Faulkner
Boethel	Felty
Bond	Ferguson
Boyd	Fielden
Bradbury	Fuchs
Bridgers	Galbreath
Broadfoot	Gordon, Mrs.
Brown of Cherokee	Hale
Brown of Nacogdoches	Hamilton
Bundy	Hardeman
Burkett	Hardin
Burney	Harp
Cauthorn	Harrell of Bastrop
Celaya	Harrell of Lamar
Chambers	Heflin
Clark	Holland
Cleveland	Howard
Cockrell	Hull
Coleman	Hunt
Colquitt	Isaacks
Colson, Mrs.	Johnson of Ellis
Cornett	Keith
Crossley	Kennedy
Daniel	Kern
Davis of Jasper	Kerr

Kinard
Kersey
King
Langdon
Lehman
Leyendecker
Little
Lock
London
Mays
McDaniel
McDonald
McFarland
McNamara
Mohrmann
Monkhouse
Montgomery
Morris
Newell
Oliver
Pace
Pevehouse
Piner
Reader of Bexar
Reader of Erath
Reaves
Reed
Rhodes
Roberts

Robinson
Russell
Skiles
Smith of Frio
Smith of Hopkins
Smith
of Matagorda
Spencer
Stinson
Talbert
Tarwater
Taylor
Tennant
Thornberry
Thornton
Turner
Vale
Vint
Waggoner
Weldon
Wells
Westbrook
White
Wilson
Winfree
Wood
Worley
Wright

Nays—9

Bailey Donaghey
Bradford McAlister
Bray McMurry
Corry Petsch
Dean

Absent

Allen Loggins
Anderson Nicholson
Boyer Pope
Gilmer Schuenemann
Goodman Segrist
Harris Shell
Hartzog Stoll
Johnson of Tarrant Voigt
Leonard

Absent—Excused

Hankamer Riviere
Harper Roach
Ragsdale

Mr. Galbreath offered the following amendment to the amendment:

Amend House Bill No. 340, by adding a new Section to read as follows:

"All cash of any person, firm or corporation that is on hand or on deposit the first day of the year shall be, and a tax is hereby, levied of one-half of one per cent ($\frac{1}{2}$ of 1%) and all stocks and bonds owned by

individuals or corporations shall be, and is hereby, taxed one-half of per cent ($\frac{1}{2}$ of %) of their true value."

On motion of Mr. Anderson, the amendment by Mr. Galbreath was tabled.

Mr. Faulkner offered the following amendment to the amendment:

Amend substitute to House Bill No. 340, by adding a new Section on page 20, to be known as Section 1a.

"There is hereby levied a tax on all salt mined or produced in the State of Texas, the sum of 25c per ton, on mineral salts and mineral water crystals, 10c per pound and on mineral water sold commercial, 1c per gallon."

Mr. Morris moved to table the amendment.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—60

Allison	Keith
Anderson	Kersey
Baker of Grayson	Kinard
Blankenship	King
Boethel	Langdon
Boyd	Lehman
Boyer	Loggins
Bradbury	London
Bridgers	McNamara
Brown of Cherokee	Mohrmann
Cauthorn	Morris
Clark	Pevehouse
Cleveland	Pope
Cornett	Reader of Bexar
Daniel	Reed
Davis of Jasper	Rhodes
Dean	Russell
Derden	Skiles
Dickison	Stinson
Dwyer	Tarwater
Goodman	Taylor
Gordon, Mrs.	Thornberry
Hale	Vale
Hamilton	Vint
Hardeman	Wells
Harp	White
Harris	Winfree
Heflin	Wood
Hull	Worley
Isaacks	Wright

Nays—74

Allen	Baker
Alsup	of Fort Bend
Bailey	Bell

Bond	Kern
Bradford	Kerr
Bray	Leyendecker
Brown	Little
of Nacogdoches	Lock
Bundy	Mays
Burkett	McAlister
Burney	McDaniel
Celaya	McDonald
Chambers	McFarland
Cockrell	McMurry
Coleman	Monkhouse
Colson, Mrs.	Montgomery
Corry	Newell
Crossley	Nicholson
Davis of Upshur	Oliver
Dickson	Pace
Donaghey	Petsch
Dowell	Piner
Faulkner	Reader of Erath
Felty	Roberts
Ferguson	Robinson
Fuchs	Shell
Galbreath	Smith of Frio
Gilmer	Smith of Hopkins
Hardin	Spencer
Harrell of Bastrop	Stoll
Harrell of Lamar	Talbert
Hartzog	Tennant
Holland	Thornton
Howard	Voigt
Howington	Waggoner
Hunt	Weldon
Johnson of Ellis	Westbrook
Kennedy	Wilson

Absent

Broadfoot	Schuenemann
Colquitt	Segrist
Fielden	Smith
Johnson of Tarrant	of Matagorda
Leonard	Turner
Reaves	

Absent—Excused

Hankamer	Riviere
Harper	Roach
Ragsdale	

Mr. Clark called for a division of the question in the amendment by Mr. Faulkner.

Mr. Clark moved to table the first division of the amendment.

Mr. Davis of Upshur raised a point of order, on further consideration of the motion to table, at this time, on the ground that a motion to table the entire amendment has been previously defeated.

The Speaker sustained the point of order.

Question first recurring on the tax of 25c per ton of all salt mined or produced in the State, yeas and nays were demanded.

That section of the amendment was lost by the following vote:

Yeas—62

Bailey	Johnson of Ellis
Bell	Johnson of Tarrant
Bond	Kennedy
Bradford	Kerr
Bray	Kinard
Broadfoot	Lock
Burney	Mays
Burkett	McAlister
Chambers	McDaniel
Cockrell	McDonald
Coleman	McFarland
Colson, Mrs.	Nicholson
Corry	Oliver
Crossley	Pace
Davis of Jasper	Petsch
Davis of Upshur	Reader of Erath
Dean	Roberts
Dickson	Robinson
Donaghey	Smith of Hopkins
Dowell	Smith
Faulkner	of Matagorda
Felty	Spencer
Ferguson	Talbert
Fuchs	Tennant
Galbreath	Thornton
Hardin	Turner
Harrell of Bastrop	Voigt
Harrell of Lamar	Weldon
Hartzog	Westbrook
Howard	White
Howington	Wilson
Hunt	

Nays—72

Allen	Dickson
Allison	Dwyer
Alsup	Goodman
Anderson	Gordon, Mrs.
Baker	Hale
of Fort Bend	Hamilton
Baker of Grayson	Hardeman
Boethel	Harp
Boyd	Harris
Boyer	Heflin
Bradbury	Holland
Bridgers	Hull
Brown of Cherokee	Isaacks
Bundy	Keith
Cauthorn	Kersey
Celaya	King
Clark	Langdon
Cleveland	Lehman
Cornett	Leonard
Daniel	Little
Derden	London

McMurry	Shell
McNamara	Skiles
Mohrmann	Smith of Frio
Montgomery	Stoll
Morris	Tarwater
Newell	Taylor
Pevehouse	Thornberry
Piner	Vale
Pope	Vint
Ragsdale	Waggoner
Reader of Bexar	Wells
Reaves	Winfree
Reed	Wood
Rhodes	Worley
Russell	Wright
Segrist	

Present—Not Voting

Brown
of Nacogdoches

Absent

Blankenship	Leyendecker
Colquitt	Loggins
Fielden	Monkhouse
Gilmer	Schuenemann
Kern	Stinson

Absent—Excused

Hankamer	Roach
Harper	Riviere

Question next recurring on the tax of 10c per pound on mineral salts and crystals, yeas and nays were demanded.

That section of the amendment was lost by the following vote:

Yeas—62

Allen	Ferguson
Allison	Fuchs
Alsup	Galbreath
Bailey	Hardeman
Baker	Hardin
of Fort Bend	Harrell of Bastrop
Bell	Harris
Bond	Heflin
Bradford	Howington
Bray	Hunt
Broadfoot	Johnson of Ellis
Burkett	Kennedy
Burney	Kerr
Coleman	Lock
Colson, Mrs.	Mays
Corry	McAlister
Crossley	McDaniel
Davis of Upshur	McDonald
Dean	Monkhouse
Donaghey	Montgomery
Dowell	Nicholson
Faulkner	Oliver

Pace	Stoll
Petsch	Talbert
Reader of Erath	Tennant
Robinson	Thornton
Shell	Turner
Smith of Frio	Voigt
Smith of Hopkins	Waggoner
Smith	Weldon
of Matagorda	Westbrook
Spencer	Winfree

Nays—69

Anderson	Kersey
Baker of Grayson	Kinard
Blankenship	King
Boethel	Langdon
Boyd	Lehman
Boyer	Leonard
Bradbury	Little
Bridgers	London
Brown of Cherokee	McFarland
Brown	McMurry
of Nacogdoches	McNamara
Bundy	Mohrmann
Cauthorn	Morris
Chambers	Newell
Clark	Pevehouse
Cleveland	Piner
Cockrell	Pope
Cornett	Reader of Bexar
Daniel	Reaves
Davis of Jasper	Reed
Derden	Rhodes
Dickison	Roberts
Dwyer	Russell
Felty	Skiles
Goodman	Tarwater
Gordon, Mrs.	Taylor
Hale	Thornberry
Hamilton	Vale
Harp	Vint
Harrell of Lamar	Wells
Holland	White
Howard	Wilson
Isaacks	Wood
Johnson of Tarrant	Worley
Keith	Wright

Absent

Celaya	Kern
Colquitt	Leyendecker
Dickson	Loggins
Fielden	Schuenemann
Gilmer	Segrist
Hartzog	Stinson
Hull	

Absent—Excused

Hankamer	Riviere
Harper	Roach
Ragsdale	

Question next recurring on the tax of 1c per gallon on mineral water sold commercially, yeas and nays were demanded.

That section of the amendment was lost by the following vote:

Yeas—61

Allen	Kennedy
Allison	Kerr
Bailey	Lock
Bell	McAlister
Bond	McDaniel
Bradford	McDonald
Bray	Monkhouse
Broadfoot	Montgomery
Bundy	Newell
Burkett	Nicholson
Burney	Oliver
Coleman	Pace
Colquitt	Petsch
Colson, Mrs.	Ragsdale
Corry	Reader of Erath
Crossley	Robinson
Davis of Upshur	Shell
Dean	Smith of Frio
Derden	Smith of Hopkins
Donaghey	Spencer
Faulkner	Stoll
Ferguson	Talbert
Fuchs	Tennant
Galbreath	Thornton
Hardin	Turner
Harrell of Bastrop	Voigt
Harrell of Lamar	Weldon
Harris	Westbrook
Hartzog	White
Heflin	Winfree
Johnson of Ellis	

Nays—68

Alsup	Dickison
Anderson	Dowell
Baker	Gordon, Mrs.
of Fort Bend	Hale
Baker of Grayson	Hamilton
Blankenship	Hardeman
Boethel	Harp
Boyd	Holland
Boyer	Howard
Bradbury	Howington
Bridgers	Hull
Brown of Cherokee	Hunt
Brown	Isaacks
of Nacogdoches	Keith
Cauthorn	Kersey
Chambers	Kinard
Clark	King
Cleveland	Langdon
Cockrell	Lehman
Cornett	Leonard
Daniel	Little

London	Skiles
McFarland	Smith
McMurry	of Matagorda
McNamara	Tarwater
Mohrmann	Taylor
Morris	Thornberry
Pevehouse	Vale
Piner	Vint
Pope	Waggoner
Reader of Bexar	Wells
Reed	Wilson
Rhodes	Wood
Roberts	Worley
Russell	Wright
Segrist	

Absent

Celaya	Johnson of Tarrant
Davis of Jasper	Kern
Dickson	Leyendecker
Dwyer	Loggins
Felty	Mays
Fielden	Reaves
Gilmer	Schuenemann
Goodman	Stinson

Absent—Excused

Hankamer	Riviere
Harper	Roach

Mr. Kersey offered the following amendment to the amendment:

Amend substitute to House Bill No. 340, by striking out all of Article I of the substitute.

KERSEY,
HULL,
CROSSLEY,
CLARK,
McMURRY,
BURKETT,
BOND,
HARDIN,
VALE,
ANDERSON,
DEAN,
BOYER,
PETSCH,
CORY.

Question—Shall the amendment by Mr. Kersey be adopted?

HOUSE BILL NO. 363 WITH SENATE AMENDMENTS

Mr. Kinard called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 363, A bill to be entitled "An Act providing for instruction in Americanism and on the Constitution of the United States in all public and

private schools located within this State, providing for supervision by the Superintendent of Public Instruction, providing for compulsory examination of students on Americanism and the Constitution of the United States, fixing a penalty for the willful neglect or failure on the part of any superintendent, principal or teacher to carry out the requirements of this Act and fixing the duty of the Superintendent of Public Instruction in carrying out the provisions hereof."

Mr. Kinard moved that the House do not concur in the Senate amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed.

MESSAGE FROM THE SENATE

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

H. B. No. 363, A bill to be entitled "An Act providing for instruction in Americanism and on the Constitution of the United States in all public and private schools located within this State, providing for supervision by the Superintendent of Public Instruction, providing for compulsory examination of students on Americanism, and declaring an emergency." (With amendments.)

H. B. No. 995, A bill to be entitled "An Act providing that it shall be unlawful to kill quail in counties of a certain population except on certain days; providing the number of quail that can be killed in one day, and providing a penalty for violation of this Act." (With amendment.)

H. J. R. No. 8, Proposing an amendment to the Constitution of the State of Texas, to be known as Section 30b of Article 16, providing that the Legislature may enact laws creating Civil Service for State, county and municipal employees, providing rules and regulations therefor, and further providing that the limitation of the duration of office to two (2) years shall not apply to State, county or municipal Civil Service employees. (With amendment.)

Adopted

Senate Resolution No. 86, Relative to a social security program for the State.

The Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on House Bill No. 933.

The following have been appointed, on the part of the Senate: Senators Aikin, Isbell, Stone of Washington, Winfield and Van Zandt.

The Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on House Bill No. 363.

The following have been appointed, on the part of the Senate: Senators Burns, Redditt, Lanning, Moore and Shivers.

The Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on House Bill No. 926.

The following have been appointed, on the part of the Senate: Senators Aikin, Isbell, Stone of Washington, Winfield and Van Zandt.

Respectfully,

BOB BARKER,

Secretary of the Senate.

**CONFERENCE COMMITTEES
APPOINTED**

The Speaker announced the appointment of the following Conference Committee on Senate Bill No. 111: Messrs. Cleveland, Langdon, Alsup, Tarwater and Chambers.

The Speaker announced the appointment of the following Conference Committee on House Bill No. 363: Messrs. Kinard, Heflin, Boyd, Howard and Hartzog.

The Speaker announced the appointment of the following Conference Committee on House Bill No. 933: Messrs. Morris, Smith of Hopkins, London, Schuenemann and Harris.

The Speaker announced the appointment of the following Conference Committee on Senate Bill No. 427:

Messrs. Thornton, Reed, Alsup, Hull and Wood.

The Speaker announced the appointment of the following Conference Committee on House Bill No. 926:

Messrs. Morris, Harris, Hamilton, London and Shell.

**BILL AND RESOLUTIONS
SIGNED BY THE SPEAKER**

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bill and resolutions:

H. C. R. No. 142, To grant Susan Robertson permission to sue the State

H. C. R. No. 153, Recalling House Bill No. 1080 from the Senate.

H. C. R. No. 154, Commending the City of Gladewater.

S. B. No. 187, "An Act providing that the salary and expenses of the official Court Reporter in each Judicial District in this State having four (4) or more counties, and having a population in excess of one hundred seven thousand, five hundred (107,500), etc., be paid out of the Jury Fund, and declaring an emergency."

NOTICE GIVEN

Mr. Thornton gave notice that he would, on the next legislative day, move to take up for consideration at that time, Senate Joint Resolution No. 12, which resolution was heretofore laid on the table subject to call.

**HOUSE JOINT RESOLUTION NO.
8 WITH SENATE AMEND-
MENTS**

Mr. McAlister called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. J. R. No. 8, Proposing an amendment to the Constitution of the State of Texas to be known as Section 30b of Article 16 providing that the Legislature may enact laws creating Civil Service for State, county and municipal employees, etc.

On motion of Mr. McAlister, the House concurred in the Senate amendments by the following vote:

Yeas—118

Allen	Bond
Allison	Boyd
Alsup	Boyer
Bailey	Bradbury
Baker of Grayson	Bradford
Bell	Bray
Blankenship	Bridgers
Boethel	Broadfoot

Brown of Cherokee	Leonard
Bundy	Lock
Burkett	London
Burney	Mays
Cauthorn	McAlister
Celaya	McDaniel
Chambers	McDonald
Clark	McFarland
Cleveland	McMurry
Cockrell	McNamara
Coleman	Mohrmann
Colquitt	Monkhouse
Colson, Mrs.	Montgomery
Cornett	Morris
Corry	Newell
Crossley	Nicholson
Daniel	Oliver
Davis of Jasper	Petsch
Dean	Pevehouse
Derden	Pope
Dickison	Reader of Erath
Donaghey	Reaves
Dowell	Rhodes
Faulkner	Roberts
Ferguson	Robinson
Goodman	Russell
Gordon, Mrs.	Segrist
Hale	Shell
Hamilton	Skiles
Hardeman	Smith of Frio
Hardin	Smith of Hopkins
Harp	Smith
Harrell of Bastrop	of Matagorda
Harrell of Lamar	Spencer
Harris	Stinson
Hartzog	Tarwater
Holland	Taylor
Howard	Tennant
Hull	Thornberry
Hunt	Turner
Isaacks	Vale
Johnson of Ellis	Vint
Johnson of Tarrant	Waggoner
Keith	Weldon
Kennedy	Wells
Kern	White
Kerr	Wilson
Kersey	Winfree
Kinard	Wood
King	Worley
Langdon	Wright
Lehman	

Nays—3

Davis of Upshur	Howington
Galbreath	

Present—Not Voting

Brown	Westbrook
of Nacogdoches	

Absent

Anderson	Little
Baker	Loggins
of Fort Bend	Pace
Dickson	Piner
Dwyer	Reader of Bexar
Felty	Reed
Fielden	Schuenemann
Fuchs	Stoll
Gilmer	Talbert
Heflin	Thornton
Leyendecker	Voigt

Absent—Excused

Hankamer	Riviere
Harper	Roach
Ragsdale	

RECESS

Mr. Thornton moved that the House adjourn until 10:00 o'clock a. m., tomorrow.

Mr. Keith moved that the House recess until 7:30 o'clock p. m., today.

Mr. Vint moved that the House recess until 10:00 o'clock a. m., tomorrow.

The motion of Mr. Vint prevailed, and the House, accordingly, at 5:30 o'clock p. m., took recess until 10:00 o'clock a. m., tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills, as follows:

Education: Senate Bill No. 470.

Counties: House Bill No. 1104; Senate Bill No. 463.

Appropriations: House Bills Nos. 1097 and 1106.

REPORT OF THE COMMITTEE
ON ENGROSSED BILLS

Committee Room,

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 1097, A bill to be entitled "An Act making an appropriation of the sum of Fifty Thousand (\$50,000.00) Dollars, or so much thereof

as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses and per diem of Members, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 1041, "An Act providing for Twenty-five Dollars (\$25) expenses for County Commissioners in certain counties in this State; providing mode and manner of payment of such expense accounts; making this Act cumulative of all laws and parts of laws now in force in this State, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HAMILTON, Chairman.

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 1054, "An Act providing for the payment of the traveling expenses of the court reporter of the One Hundred and Tenth Judicial District of Texas, composed of Briscoe, Motley, Dickens, and Floyd Counties; limiting the amount of expense to be paid; providing for sworn accounts to be approved by the District Judge and filed with the District Clerk in the county where the Judge resides, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HAMILTON, Chairman.

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 142, Granting Susan Robertson, et al, the right to sue the State.

Has carefully compared same and finds it correctly enrolled.

HAMILTON, Chairman.

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 153, Recalling House Bill No. 1080.

Has carefully compared same and finds it correctly enrolled.

HAMILTON, Chairman.

Austin, Texas, May 22, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 154, Congratulating Mr. Murray C. Sells and the City of Gladewater on the Second Annual Gladewater Roundup.

Has carefully compared same and finds it correctly enrolled.

HAMILTON, Chairman.

SENT TO THE GOVERNOR

May 22, 1939

House Bill No. 1046.

House Bill No. 1041.

House Bill No. 1054.

House Concurrent Resolution No. 124.

House Concurrent Resolution No. 149.

House Concurrent Resolution No. 142.

House Concurrent Resolution No. 153.

House Concurrent Resolution No. 154.

SEVENTY-THIRD DAY

(Continued)

(Tuesday, May 23, 1939)

The House met at 10:00 o'clock a. m., and was called to order by Speaker Morse.

Prayer was offered by Rev. George W. Coltrin, Chaplain, as follows:

"Lord, we know that Thou art, and that Thou art a rewarder of them that diligently seek Thee. Humbly we stand before Thee just now, with praise for Thy goodness and power. We pray for Thy help and guiding hand in our efforts today. In Jesus' name. Amen."